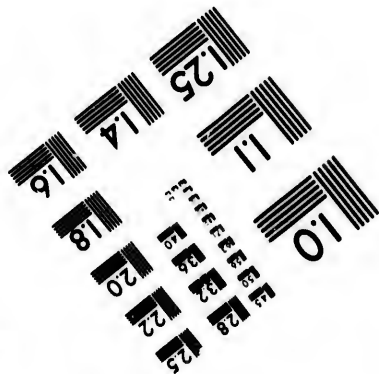
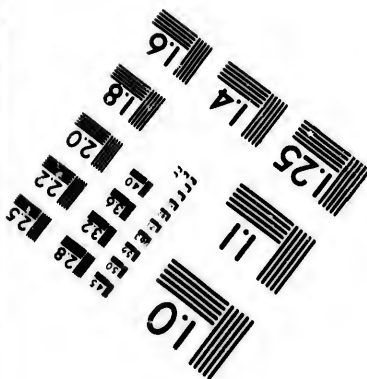
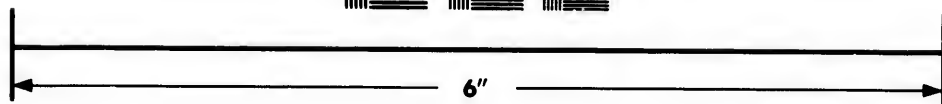
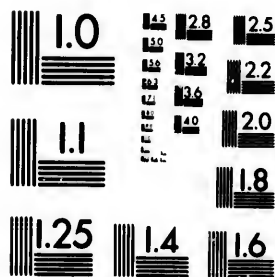


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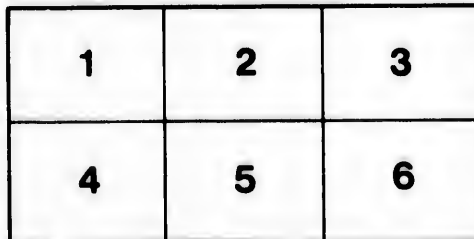
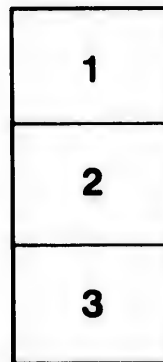
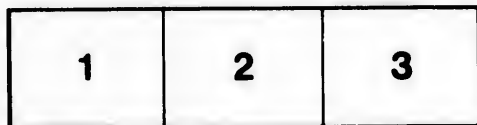
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CORRESPONDENCE

RESPECTING THE

NEGOTIATIONS WITH THE UNITED STATES'  
GOVERNMENT

ON THE QUESTIONS OF THE

“ ALABAMA ” AND BRITISH CLAIMS,

NATURALIZATION,

AND

SAN JUAN WATER BOUNDARY.

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*Presented to both Houses of Parliament by Command of Her Majesty.*  
1869.

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Correspondence respecting the Negotiations with the United States' Government on the Questions of the "Alabama" and British Claims, Naturalization, and San Juan Water Boundary.

No. 1.

Lord Stanley to Mr. Thornton.

Sir, MR. ADAMS communicated to me on the 15th instant some parts of a despatch which he had lately received, in which Mr. Seward expresses his wish that some means may be found of arranging the differences now existing between England and the United States. The questions causing these differences Mr. Seward enumerates as follows:--

- 1st. The Alabama claims.
2nd. The San Juan question.
3rd. The question of Naturalized Citizens; their rights and position.
4th. The Fishery question.

I noticed that among these the question of the Reciprocity Treaty with Canada was not included.

Any one of these questions, Mr. Seward said, might at any time, from accidental causes, occupy public attention, and give rise to exciting controversy.

Mr. Seward desired not to be understood as making any new proposition; but he repeated the suggestion which he had more than once offered, that the true method of dealing with all these matters was by treating them jointly, and endeavouring, by means of a Conference, to settle them all.

I told Mr. Adams, in reply, that no one could be more anxious than I was to see these troublesome disputes at an end; and that, acting under that feeling, I should be prepared to acquiesce in any plan of settlement that held out a reasonable probability of success; at the same time, I must add that I could not well understand what was to be the nature of the Conference suggested by Mr. Seward. How was it to be constituted? with what powers? where to be held? and what advantage did Mr. Seward suppose there would be in discussing simultaneously, instead of separately, a variety of matters, each of which was sufficiently intricate and perplexing when taken by itself? I expressed a hope that Mr. Seward might be induced further to develop his idea, which I assured him should meet with full and careful consideration.

I am, &c. (Signed) STANLEY.

No. 2.

Lord Stanley to Mr. Thornton.

Sir, I RECEIVED on the 9th instant your telegram of the 8th, stating that Mr. Seward was desirous of concluding a Treaty between Great Britain and the United States, regulating the status and liabilities of the subjects and citizens of either country who may be naturalized in the other.

It appears from your further telegram of the 11th, that Mr. Seward, having received the Treaty recently signed on the same subject at Berlin, between Prussia

on behalf of the North German Confederation and the United States, presses for the conclusion of a similar Treaty between those States and Great Britain.

I need hardly tell you that Her Majesty's Government have received with the greatest satisfaction this overture for the settlement of a question which is beset with many difficulties; and you will assure Mr. Seward that they duly appreciate the spirit in which it has been made, and would have been most happy if they could at once have closed with it.

On examining, however, the provisions of the Treaty between the United States and the North German Confederation, and on consulting the Law Officers of the Crown as to the possibility of adopting them, Her Majesty's Government regret to find that it is impossible for them to do so.

There are legal difficulties which render the provisions of the Treaty liable to insuperable objections as they now stand, derived in a great degree from the state of uncertainty in which many important questions arising out of them would be left.

For instance, the stipulation that five years' residence with naturalization shall alter the nationality of the person naturalized, though clear enough as regards such person, leaves open very material questions which ought to be determined by express regulation. Among these may be cited:—

1. What is to be the status of a child born after naturalization, and before the expiration of five years; and what

2. Is to be the status of a child born after naturalization and after the lapse of five years, whose parent afterwards goes back to, and becomes again a citizen or subject of his own or of a third country.

The IIIrd Article of the Treaty regarding extradition would find no place in a Treaty between England and the United States, but the IVth Article is objectionable in consequence of the doubts to which it would give rise. It would be most difficult to ascertain in many cases whether a particular person at a particular period after his return to his original country "had renewed his residence without intent to return" to the country of his naturalization, and the concluding paragraph of that Article, which provides that the intent not to return may be held to exist where the person naturalized in the one country resides more than two years in the other country, by which Her Majesty's Government understand that such residence would only be *prima facie* evidence of intent, would leave open questions most doubtful and difficult of solution in each case where a claim to, or denial of nationality was raised.

You might state to Mr. Seward the above as among many other legal difficulties which would stand in the way of the conclusion of a Treaty between England and the United States based on the Treaty with the North German Confederation.

The force of these difficulties may not have occurred to Mr. Seward, or, if it has, he may possibly be able to explain to you how it is proposed to solve them. You may assure Mr. Seward that any explanations he may give will be most fully weighed by Her Majesty's Government, and with an anxious desire to bring the question to a satisfactory settlement.

It was on these grounds generally that I have stated to you in my telegram of the 12th that Her Majesty's Government could not authorize you at once to conclude a Treaty of Naturalization, such has had been proposed to you by Mr. Seward.

I am, &c.

(Signed) STANLEY.

No. 3.

*Lord Stanley to Mr. Thornton.*

Sir,

*Foreign Office, March 21, 1868.*

I INSTRUCTED you by telegraph on the 16th instant to suspend any communication to Mr. Seward, as described to you by my despatch of the 14th, in regard to the difficulties which occurred to Her Majesty's Government as to the conclusion of a Treaty between England and the United States on the subject of Naturalization. I informed you that Her Majesty's Government would endeavour to frame a Draft of Treaty which might be acceptable to both countries, and that, in the meanwhile, you should only assure Mr. Seward that the matter was under the serious consideration of your Government.

I regret to say that the more the subject has been examined, the greater have been found to be the legal difficulties with which the whole question is surrounded.

The matter might be disposed of with comparative ease, if no other party but the one naturalized were to be affected by the renunciation or remission of natural allegiance, though even in that case it would be necessary to determine whether such renunciation or remission should be absolute, or whether readmission into the fold of original allegiance should be permitted; and if so, on what terms, and under what conditions.

But other and more complicated matters arise when questions of descent, succession, title to property, and the general bearing of municipal laws adapted to the existing state of things have to be considered, and much difficulty might arise and much litigation occur in the Courts, and many questions might come into discussion between Governments, unless such matters were duly weighed and discussed, and definite principles, by which all such difficulties should be obviated, were adopted between the countries concerned and were sanctioned by their respective Legislatures.

As regards this country, if the principles of the Prussian Treaty were to be adopted as the groundwork of a Treaty between Great Britain and the United States, it would be necessary to consider the bearing which such a Treaty would have, not only on the common and statute law, but also on the legislation of British Colonies; and, considering the close resemblance between the law and procedure of this country and those of the United States, the same process would doubtless have to be gone through there; and in both it would probably be found that a considerable revision of the law would be required to enable a Naturalization Treaty to work smoothly.

The only instruction, therefore, that Her Majesty's Government feel can now be safely given to you is, that you should assure Mr. Seward of their anxious desire to act in concert with the Government of the United States in endeavouring to devise some effectual means for setting at rest this important and intricate question. The obstacles to immediate action which they see are of a legal, not of a political character. They disclaim the idea of desiring to maintain and enforce the doctrine of indefensible allegiance, and are quite willing to adopt the principle of expatriation, which they think ought properly to be conceded by a Government, which for many years past has sanctioned, and even encouraged, an extensive emigration of British subjects to foreign States.

It is their intention at once to institute an inquiry into the legal bearings of the question, and they hope that the result of this inquiry may be the production, without unnecessary loss of time, of a well-considered and satisfactory measure.

You are at liberty to communicate this despatch to Mr. Seward, and to give him a copy.

I am, &c.  
(Signed) STANLEY.

---

No. 4.

*Lord Stanley to Mr. Thornton.*

Sir,

*Foreign Office, March 21, 1868.*

I RECEIVED, this morning, your telegram of yesterday, stating that Mr. Seward is prepared to sign a Naturalization Treaty between the United States and England, similar to that between the United States and Prussia, though modified in certain points which you specify.

It is with great regret that I have felt constrained by circumstances which will have been explained in my despatch of the 14th, and which are fully explained in my previous despatch of this day, to reply to you by telegraph that, although Her Majesty's Government have no objection in principle to alter the law of naturalization, yet that the legal details involved in this question require such careful consideration, that it is impossible for Her Majesty's Government, without further inquiry, to authorize you to sign any Treaty on the subject.

I am, &c.  
(Signed) STANLEY.

## No. 5.

Lord Stanley to Mr. Thornton.

(Extract.)

Foreign Office, March 31, 1868.

MR. ADAMS communicated to me to-day a despatch from Mr. Seward, which was to the following effect:—

Mr. Seward says that the Naturalization question causes much uneasiness in America, and is the most urgent of any of those now pending. Till that question is settled, it is almost hopeless to attempt to remove other causes of difference. It admits of no delay compatibly with the maintenance of good understanding between the two countries. On this ground Mr. Seward disapproves of the proposal to deal with it by means of an International Commission. There now exists, he says, the possibility of an arrangement. The Prussian Treaty is supposed to be unobjectionable to Great Britain. All that would be necessary to bring it into operation as regards England would be a supplementary stipulation, to the effect that the naturalized citizen should enjoy in the country from which he comes all rights and privileges such as belong to natives.

Mr. Seward says that he is in communication with you on the subject; that he will supply a draft which he will be ready to execute immediately; and that he has suggested that you should apply by telegraph for instructions.

He adds, that he reserves his opinion on the manner of proceeding in regard to the "Alabama" question, as his decision with regard to that will be much influenced by the proceedings in the Naturalization question.

## No. 6.

Mr. Thornton to Lord Stanley.—(Received April 11.)

(Extract.)

Washington, March 30, 1868.

ON the receipt of your despatch of the 14th instant I called upon Mr. Seward, and made known to him the objections which the Law Officers of the Crown find to our concluding a Convention on Naturalization on the basis of that lately signed between this country and the North German Confederation.

After conversing upon the subject, Mr. Seward drew up a Memorandum, copy of which I have the honour to inclose, in answer to the inquiries made in that despatch.

But as your Lordship alludes to "many other legal difficulties" which would stand in the way of such a Treaty, I have the honour to suggest to your Lordship that a draft should be forwarded to me which should contain all that is desired by Her Majesty's Government upon the subject, so that I may be able to submit it to Mr. Seward or to his successor, or at least to sound him as to his disposition to agree to their requirements.

Reverting to the inquiries made in the above-mentioned despatch, I have the honour to state that naturalization cannot be obtained in this country without a residence of five years. A child born in this country of an Englishman before naturalization, would be an American in this country and an Englishman out of it; indeed, Mr. Seward's opinion seemed to be that the child would generally be a citizen of the country, native or adopted, of his father, except so far as the country in which the child is born has a right on that account to claim him as a citizen. Thus the son of an Englishman, naturalized in the United States, who might be born during the two years after the return of the father to England, would be English in England, on account of his birth there, but American elsewhere, on account of his parentage, his father being still held to be an American citizen.

With regard to these two years, Mr. Seward certainly thinks that discussions might hereafter arise upon the subject. If it were so, he considers that the two years' continuous residence should only be deemed *prima facie* evidence of the intent of a man naturalized in the other country to return to that of his birth; and that, as in cases of domicile, the question of his real intention should be decided by the Judicial Courts.

But Mr. Seward is of opinion that it would be expedient at once to lay down the great principle of expatriation and naturalization, and to leave other details for a future Convention, in the negotiation of which both Governments would have the advantage of having studied the effect of the practice of the first principle.

## Inclosure in No. 6.

*Memorandum.*

AS to the first objection, Mr. Seward remarks, that five years' continuous residence, by the law of the United States, is a necessary preliminary to naturalization, so that the case supposed in the first British objection cannot occur.

As to the second point, Mr. Seward remarks, that a parent going back, or becoming again a citizen or subject of his own or a third country, does not deprive the child of the citizenship acquired by birth in either country. Citizenship of the child does not necessarily change with the return of the parent to his original country.

The IIIrd Article is to be omitted in the Treaty.

There is no difficulty involved in the IVth Article, except such as is in all cases and everywhere incident to domicile.

A British subject, naturalized in America and returning to Great Britain for two years, does not necessarily renounce his American citizenship, only he may be called upon to assert or prove his purpose more explicitly.

(A new Article.) The parties agree to negotiate a further Convention if it shall be rendered necessary by reason of embarrassments experienced in the execution of the stipulations of this Treaty.

## No. 7.

*Mr. Thornton to Lord Stanley.—(Received April 14.)*

(Extract.)

*Washington, April 7, 1868.*

IN accordance with your Lordship's permission I have given to Mr. Seward a copy of your despatch of the 21st ultimo, leaving out the first paragraph. He has promised me a Report, drawn up by a lawyer, on the bearing of the stipulations contained in the Treaty with Prussia, upon the common and statute law of this country.

## No. 8.

*Mr. Thornton to Lord Stanley.—(Received April 25.)*

(Extract.)

*Washington, April 13, 1868.*

WITH reference to my despatch of the 7th instant, in which I stated that Mr. Seward had promised me a Report, drawn up by a lawyer, on the bearing of the provisions of the Treaty on Naturalization between the United States and the North German Confederation, upon the laws of this country, I have now the honour to inform your Lordship that, upon further reflection, he has confessed to me his inability to comply with my wishes on this subject. He says that the consideration of the subject in this light would bring to the surface a number of hypothetical cases on which it could not be supposed that any Government would be willing to commit itself, and which he thinks it would be impossible to decide upon at present, nor, indeed, until further experience shall show what requirements may arise out of the provisions of the Treaty as it stands.

It is on this account that Mr. Seward still urges that England and the United States should come to a simple Treaty engagement on the great principles of expatriation and naturalization, and that the discussion and negotiation of further details should be deferred to a later period when experience may have thrown more light upon the subject.

With reference to the provision in the IVth Article of the Treaty with Prussia as to the renewal of residence by a naturalized subject in his native country, I should say that this was rather a concession on the part of the United States to Prussia than a necessary part of the Treaty. It is by no means meant as a mode of insisting by the United States that a Prussian naturalized in America should be received back again into his native country, but merely as a declaration that after his having shown an intention to remain there, the United States would no longer grant him their protection, nor prevent the Prussian authorities from obliging him

to share in the burthens imposed upon other subjects whose position would be invidious as compared with that of the former.

It does not seem that such a provision would be indispensable in a Treaty with England; on the contrary, the question of repatriation had better perhaps be left to the internal legislation of each country.

## No. 9.

*Lord Stanley to Mr. Thornton.*

Sir,

*Foreign Office, June 16, 1868.*

THE United States' Chargé d'Affaires has inquired of me, by direction of Mr. Seward, whether Her Majesty's Government were prepared at once to enter into a Treaty with the United States on the subject of naturalization.

I reminded Mr. Moran, in reply, of the statements which some weeks ago I made in the House of Commons, and which were received, as I believed, with general approval, that Her Majesty's Government were prepared to entertain in principle the question of a Naturalization Treaty, and no longer held to the doctrine of indefeasible allegiance.

But, I observed to Mr. Moran, that with every good disposition on their part to contribute to setting at rest a question which, as it now stood, was calculated to interfere with the maintenance of good understanding between this country and the United States, Her Majesty's Government found it was inexpedient, not to say impossible, to proceed hastily in a matter which involved points of great legal difficulty, and might affect the interests not only of persons now in being, but of persons still unborn. It was necessary, therefore, to consider how British law bore on the question, and the similarity between the laws of the two countries need scarcely be insisted upon in support of the statement that there are many legal points to be considered and determined before either a Treaty can be concluded, or legislation attempted, by this country.

Her Majesty's Government, I said, have lost no time in seeking to elucidate the questions to be considered. A Royal Commission, composed of very eminent persons, had been appointed, and were now engaged in investigating those questions; it was impossible to say how long the inquiry would take, but even apart from the question of the inexpediency of anticipating the Report of the Commissioners, I thought it right to remark that, in the actual state of public affairs in Parliament, and considering the general anxiety felt to restrict legislation to what was absolutely required with a view to an early dissolution, it would be impracticable, even if the Report of the Commission had been agreed upon and published, to introduce into the House of Commons, with any chance of its immediately becoming law, a Bill for giving effect to the recommendations of that Report. It could not be expected to pass without much discussion, and for this there was not now time.

It seemed to me, therefore, inevitable that legislation on the subject must be deferred till the meeting of the new Parliament, and, as the Treaty must be made dependent on such legislation, it was useless to conclude it at once.

I am, &c.  
(Signed) STANLEY.

## No. 10.

*Lord Stanley to Mr. Thornton.*

Sir,

*Foreign Office, September 19, 1868.*

THE United States' Minister called upon me this day, and stated to me that he would hold himself ready, in case Her Majesty's Government are willing to agree, to conclude a Treaty of Naturalization between the two countries, generally similar to those made by the United States with other Powers; such Treaty to be conditional on the passing by Parliament of an Act to enforce its provisions. He was not authorized, he said, to discuss with me officially the "Alabama" question until this matter had been disposed of.

I was unable to give an immediate reply to Mr. Reverdy Johnson's proposal,

as the Royal Commission appointed to inquire into the subject of naturalization and allegiance has not yet reported. I did not, however, discourage it.

I am, &c.  
(Signed) STANLEY.

No. 11.

*Lord Stanley to Mr. Thornton.*

Sir,

*Foreign Office, October 9, 1868.*

SINCE my despatch of the 19th ultimo I have been in communication with Mr. Reverdy Johnson on the subject of the proposal which he had made for the conclusion of a Treaty of Naturalization, generally similar to those between the United States and other Powers, but conditional on the passing by Parliament of an Act to carry out its provisions.

Her Majesty's Government, although anxious, with a view to the promotion of good relations between the two countries, that this question, which has so long been discussed between them, should be set at rest, have found themselves unable to assent to the conclusion of a formal Convention, as originally proposed by Mr. Johnson.

They have, however, considered that they might properly place on record their desire to come to an agreement with the United States on this subject; and have, accordingly, in communication with the proper Law Advisers of the Crown, framed a Protocol which, having been previously submitted, unofficially, to Mr. Reverdy Johnson, was signed by that gentleman with me this morning.

A copy of this Protocol is inclosed. You will observe that it is not to take effect until provision can be made by Parliament, on the Report of the Royal Commission, for such a revision of the existing laws as the adoption of the principles embodied in it involves.

I am, &c.  
(Signed) STANLEY.

Inclosure in No. 11.

*PROTOCGL showing the Principles agreed upon by the British and the United States' Governments on the question of Naturalization.—Signed at London, October 9, 1868.*

THE Undersigned, Edward Henry Lord Stanley of Bickerstaffe, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, and Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, being respectively authorized and empowered to place on record the desire of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and of the President of the United States of America to regulate the citizenship of British subjects who have emigrated or who may emigrate from the British dominions to the United States of America, and of citizens of the United States of America who have emigrated or who may emigrate to the British dominions, have agreed upon the following Protocol:—

I. Such British subjects as aforesaid who have become, or shall become, and are naturalized according to law within the United States of America as citizens thereof, shall, subject to the provisions of Articles II and IV, be held by Great Britain to be in all respects and for all purposes American citizens, and shall be treated as such by Great Britain.

Reciprocally, such citizens as aforesaid of the United States who have become, or shall become, and are naturalized according to law within the British dominions as British subjects, shall, subject to the provisions of Articles II and IV, be held by the United States to be in all respects and for all purposes British subjects, and shall be treated as such by the United States.

II. Such British subjects as aforesaid who have become and are naturalized as citizens within the United States, and such United States' citizens as aforesaid who have become and are naturalized within the British dominions as British subjects, shall be at liberty to renounce their naturalization and to resume their respective



nationalities, provided that such renunciation be publicly declared within two years after this Protocol shall have been carried into effect, as provided by Article IV.

The manner in which this renunciation may be made and publicly declared shall be hereafter agreed upon by the respective Governments.

III. If such British subject as aforesaid naturalized in the United States should renew his residence within the British dominions, the British Government may, on his own application and on such conditions as that Government may think fit to impose, readmit him to the character and privileges of a British subject, and the United States shall not, in that case, claim him as a citizen of the United States on account of his former naturalization.

In the same manner, if such American citizen as aforesaid naturalized within the British dominions should renew his residence in the United States, the United States' Government may, on his own application and on such conditions as that Government may think fit to impose, readmit him to the character and privileges of an American citizen, and Great Britain shall not, in that case, claim him as a British subject on account of his former naturalization.

IV. As it will not be practicable for Great Britain to carry into operation the principles laid down in this Protocol until provision has been made by the Imperial Parliament for such a revision of the existing laws as the adoption of those principles involves, it is agreed that this Protocol shall not take effect until such legislation can be accomplished.

The British Government will introduce measures into Parliament for this purpose as speedily as may be possible, having regard to the variety of public and private interests which may be affected by a change in the laws of naturalization and allegiance now under the consideration of the Royal Commission, whose Report is expected shortly to be made.

The same provision not being necessary by the Constitution and laws of the United States, this Article is not made reciprocal.

Done at London, the 9th of October, 1868.

(Signed)

STANLEY.  
REVERDY JOHNSON.

No. 12.

*Extract from Mr. Reverdy Johnson's Instructions.—(Communicated to Lord Stanley by Mr. Reverdy Johnson, October 16, 1868.)*

2ndly.—IN case Her Majesty's Government shall adopt the required measures to adjust the Naturalization question, you will next be expected to give your attention to the adjustment of the North-West Boundary Controversy, which involves the right of national dominion and property over the Island of San Juan on the frontier line between the United States and British Columbia.

It is understood that on the breaking out of the recent civil war in the United States this boundary question was on the eve of being arranged by referring it to an impartial and friendly arbiter. The question is increasing in urgency, with the growing settlement and population of the North-West, and with the multiplication of causes of litigation within the disputed territory. The United States still remain in a disposition favourable to the process of adjustment originally contemplated.

\* \* \* \* \*  
Our conclusion is, that in the event that you become convinced that an arrangement of the Naturalization question which would be satisfactory to the United States, in view of your previous instructions, can be made, then and in that case you may open concurrent negotiations upon the two questions first herein named, to wit, San Juan and the Claims question; but that those two negotiations shall not be completed or your proceedings therein be deemed obligatory until after the Naturalization question shall have been satisfactorily settled by Treaty or by Law of Parliament.

*Lord Stanley to Mr. Thornton.*

Sir,

*Foreign Office, October 17, 1868.*

I TRANSMIT to you herewith a copy of a Protocol which I have this day signed with Mr. Reverdy Johnson, recording the desire of Her Majesty's Government, and of that of the United States, to close the discussion respecting the Water Boundary under the Oregon Treaty.

I am, &c.

(Signed) STANLEY.

Inclosure in No. 13.

*Protocol recording desire of Her Majesty's and the United States' Governments to close Discussion respecting Water Boundary.*

THE Undersigned, Edward Henry Lord Stanley, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, and Reverdy Johnson, Esquire, Envoy Extraordinary, and Minister Plenipotentiary from the United States of America, being respectively authorized and empowered to place on record the bases on which Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, are prepared to close all further discussion with regard to the true direction of the line of Water Boundary between their respective possessions, as laid down in Article I of the Treaty concluded between them on the 15th of June, 1846, have agreed upon the following Protocol:—

I. Whereas it was stipulated by Article I of the Treaty concluded at Washington on the 15th of June, 1846, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, that the line of boundary between the territories of Her Britannic Majesty and those of the United States, from the point on the 49th parallel of north latitude, up to which it had already been ascertained, should be continued westward along the said parallel of north latitude "to the middle of the channel which separates the Continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean:"—and whereas the Commissioners appointed by the two High Contracting Parties to mark out that portion of the boundary which runs southerly through the middle of the channel aforesaid have not been able to determine which is the true line contemplated by the Treaty:

It is agreed to refer to some friendly Sovereign or State to determine the line which, according to the terms of the aforesaid Treaty, runs southerly through the middle of the channel which separates the Continent from Vancouver's Island, and of Fuca's Straits, to the Pacific Ocean; and it is further agreed, that within three months after the exchange of the ratifications of any Treaty that may hereafter be concluded for giving effect to the terms of this Protocol, the Contracting Parties shall select some friendly Sovereign or State to act as referee in the premises.

II. If such Sovereign or State should be unable to ascertain and determine the precise line intended by the words of the Treaty, it is agreed that it shall be left to such Sovereign or State to determine upon some line which, in the opinion of such Sovereign or State, will furnish an equitable solution of the difficulty, and will be the nearest approximation that can be made to an accurate construction of the words of the Treaty.

III. It is agreed that such Sovereign or State shall be at liberty to call for the production of, and to consult, all the correspondence which has taken place between the British and American Governments on the matter at issue, and to weigh the testimony of the British and American negotiators of the Treaty as recorded in that correspondence as to their intentions in framing the Article in question; and such Sovereign or State shall farther be at liberty to call for the reports and correspondence, together with any documents, maps, or surveys bearing on the same, which have emanated from, or were considered by, the Commissioners who have recently been employed by the two Governments to endeavour to ascertain the line of boundary as contemplated by the Treaty, and to consider all evidence that either party may produce. But the referee shall not depart from the true meaning of the Article as it stands, if he can deduce that meaning from the words of the Article,

those words having been agreed to by both parties, and having been inserted in a Treaty certified by both Governments.

IV. The respective parties formally engage to consider the decision of the referee, when given, as final and conclusive, whether such decision shall be a positive decision as to the line of boundary intended by the true meaning of the words of Article I of the Treaty of 1846, or whether the said referee, being unable to give such positive decision, shall give as a decision a line of boundary as the nearest approximation to an accurate construction of those words, and as furnishing an equitable solution of the difficulty; and such decision shall, without reserve, be carried into immediate effect by Commissioners to be appointed for the purpose of marking out the line of boundary in accordance with such decision of the referee.

V. It is understood that this Agreement shall not go into operation, or have any effect, until the question of naturalization now pending between the two Governments shall have been satisfactorily settled by Treaty, or by law of Parliament, or by both, unless the two parties shall in the meantime otherwise agree.

Done at London, the 17th of October, 1868.

(Signed)

STANLEY.  
REVERDY JOHNSON.

No. 14.

*Lord Stanley to Mr. Thornton.*

Sir,

*Foreign Office, October 21, 1868.*

THE United States' Minister called on the 20th instant to discuss with me the question of the "Alabama" claims, and much conversation passed between us on the subject, in the course of which Mr. Reverdy Johnson again put forward the proposal adverted to in Mr. Seward's former despatches, viz., that all the claims on both sides should be referred to the decision of Commissioners, who should be, in equal numbers, British subjects and American citizens, who, if they disagreed, should have power to call in an umpire, and whose decision, with such assistance, shall be final.

I pointed out to Mr. Reverdy Johnson the inapplicability of this method of proceedings as applied to the "Alabama" claims and others of the same class. I expressed my opinion that inasmuch as the question at issue was really the culpability or non-culpability of Her Majesty's Government in regard to the matter complained of, it would be in the highest degree unseemly that a British subject should be called upon to pronounce judgment on the authorities of his own country; nor would the position of the American Commissioners be much better,—for if they decided against the view taken by the United States' Government, they would in fact be condemning the policy maintained by that Government during the last four years.

Moreover, it would be hardly possible to find in either country any individual of sufficient eminence for such a duty who was not in speech or writing already committed to some view on the question; nor could impartiality be reasonably expected in a matter in which the feelings of both countries were so deeply involved.

For these reasons it seemed to me preferable that the arbitrator proposed should be the Sovereign or President of a friendly State. I named especially the President of the Swiss Republic and the King of Prussia.

Mr. Reverdy Johnson said he was not instructed to accede to the proposal I had made, but would telegraph for permission to do so. He did so accordingly before leaving the office, and has promised me an early reply.

In this conversation little was said as to the point on which the former negotiations broke off, viz., the claim made by the United States' Government to raise before the Arbitrator the question of the alleged premature recognition by Her Majesty's Government of the Confederates as belligerents. I stated to Mr. Reverdy Johnson that we could not on this point depart from the position which we had taken up, but I saw no impossibility in so framing the reference as that, by mutual consent, either tacit or express, the difficulty might be avoided.

I am, &c.

(Signed) STANLEY.

## No. 15.

*Lord Stanley to Mr. Thornton.*

Sir, *Foreign Office, November 10, 1868.*  
 MR. REVERDY JOHNSON called at the Foreign Office on the 29th ultimo, and made a proposal on behalf of his Government, for a basis on which a settlement of the British and American claims might be arrived at by arbitration through a Mixed Commission.

This proposal was reduced to a more formal shape at a further interview between Mr. Reverdy Johnson and myself on the 3rd instant, at which Her Majesty's Attorney-General was present, and has now been adopted in a Convention, which I have this day signed with Mr. Johnson, and of which I inclose a copy for your information.

You will observe that the general claims are to be adjudicated upon by the Commissioners, who on this occasion are to be four in number, assisted by an Arbitrator, in the manner provided by the former Claims Convention of the 8th of February, 1853.

The class of claims known as the "Alabama" claims are also to be dealt with by the Commissioners, but their consideration of these claims is to be limited to the official correspondence which has already taken place between the two Governments, and, in the event of their not coming to an unanimous decision, is to be referred to some Sovereign or Head of a friendly State who is to be chosen by the two Governments as Arbitrator for the purpose, without argument or further evidence. The Commissioners unanimously, or the Arbitrator, are, however, to be at liberty to call for argument or further evidence if they or he shall deem it necessary.

I am, &amp;c.

(Signed) STANLEY.

## Inclosure in No. 15.

*Convention between Great Britain and the United States of America, for the Settlement of all Outstanding Claims.—Signed at London, November 10, 1868.*

WHEREAS claims have at various times since the exchange of the Ratifications of the Convention between Great Britain and the United States of America, signed at London on the 8th of February, 1853, been made upon the Government of Her Britannic Majesty on the part of citizens of the United States, and upon the Government of the United States on the part of subjects of Her Britannic Majesty: and whereas some of such claims are still pending, and remain unsettled; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a Convention, and have named as their Plenipotentiaries to confer and agree thereupon, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Edward Henry Stanley, commonly called Lord Stanley, a Member of Her Britannic Majesty's Most Honourable Privy Council, a Member of Parliament, Her Principal Secretary of State for Foreign Affairs;

And the President of the United States of America, Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary from the United States to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:—

## ARTICLE I.

The High Contracting Parties agree that all claims on the part of subjects of Her Britannic Majesty upon the Government of the United States, and all claims on the part of citizens of the United States upon the Government of Her Britannic Majesty, which may have been presented to either Government for its interposition

with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the Convention concluded between Great Britain and the United States of America, at London, on the 8th of February, 1853, and which yet remain unsettled; as well as any other such claims which may be presented within the time specified in Article III of this Convention, whether or not arising out the late civil war in the United States, shall be referred to four Commissioners, to be appointed in the following manner, that is to say: two Commissioners shall be named by Her Britannic Majesty, and two by the President of the United States. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act as such, Her Britannic Majesty, or the President of the United States, as the case may be, shall forthwith name another person to act as Commissioner in the place or stead of the Commissioner originally named.

The Commissioners so named shall meet at London at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn Declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, upon all such claims as shall be laid before them on the part of the Governments of Her Britannic Majesty and of the United States, respectively; and such Declaration shall be entered on the record of their proceedings.

The Commissioners shall then, and before proceeding to any other business, name some person to act as an arbitrator or umpire, to whose final decision, save as otherwise provided in Article IV of this Convention, shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an Arbitrator or Umpire, the Commissioners on either side shall name a person as Arbitrator or Umpire; and in each and every case in which the Commissioners may not be able to come to a decision, the Commissioners shall determine by lot which of the two persons so named shall be the Arbitrator or Umpire in that particular case. The person or persons so to be chosen as Arbitrator or Umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration, in a form similar to that made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such Arbitrator or Umpire, another person shall be named, in the same manner as the person originally named, to act as Arbitrator or Umpire in his place and stead, and shall make and subscribe such declaration as aforesaid.

## ARTICLE II.

The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective Governments. They shall be bound to receive and peruse all written documents or statements which may be presented to them by or on behalf of their respective Governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each Government, as Counsel or Agent for such Government, on each and every separate claim. Should they fail to decide by a majority upon any individual claim, they shall call to their assistance the Arbitrator or Umpire whom they may have agreed upon, or who may be determined by lot, as the case may be; and such Arbitrator or Umpire, after having examined the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the Commissioners, shall decide thereupon finally and without appeal.

The decision of the Commissioners, and of the Arbitrator or Umpire, shall be given upon each claim in writing, and shall be signed by them respectively and dated.

It shall be competent for each Government to name one person to attend the Commissioners as Agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The provisions of this Article shall, however, be subject to the special arrangements made by Articles IV, V, and VI of this Convention, respecting the

claims which form the subject of those Articles, and which shall be dealt with as directed in those Articles.

#### ARTICLE III.

Every claim shall be presented to the Commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners, or of the Arbitrator or Umpire in the event of the Commissioners differing in opinion thereupon; and then and in any such case the period for presenting the claim may be extended to any time not exceeding three months longer.

The Commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the Commissioners, or for the Arbitrator or Umpire if they differ, to decide in each case whether any claim has or has not been duly made, preferred, or laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this Convention.

#### ARTICLE IV.

The Commissioners shall have power to adjudicate upon the class of claims referred to in the official correspondence between the two Governments as the "Alabama" claims; but before any of such claims is taken into consideration by them, the two High Contracting Parties shall fix upon some Sovereign or Head of a friendly State as an Arbitrator in respect of such claims, to whom such class of claims shall be referred in case the Commissioners shall be unable to come to an unanimous decision upon the same.

#### ARTICLE V.

In the event of a decision on any of the claims mentioned in the next preceding Article being arrived at by the Arbitrator, involving a question of compensation to be paid, the amount of such compensation shall be referred back to the Commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the arbitrator appointed by them, or who shall have been determined by lot according to the provisions of Article I.

#### ARTICLE VI.

With regard to the before-mentioned "Alabama" class of claims, neither Government shall make out a case in support of its position, nor shall any person be heard for or against any such claim. The official correspondence which has already taken place between the two Governments respecting the questions at issue shall alone be laid before the Commissioners; and (in the event of their not coming to an unanimous decision as provided in Article IV), then before the Arbitrator, without argument written or verbal, and without the production of any further evidence.

The Commissioners unanimously, or the Arbitrator, shall, however, be at liberty to call for argument or further evidence, if they or he shall deem it necessary.

#### ARTICLE VII.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, hereby solemnly and sincerely engage to consider the decision of the Commissioners, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive upon each of such claims decided upon by them or him respectively, and to give full effect to such decisions without any objection or delay whatsoever.

#### ARTICLE VIII.

It is agreed that no claim arising out of any transaction of a date prior to the 26th of July, 1853, the day of the exchange of the ratifications of the Convention of the 8th of February, 1853, shall be admissible under this Convention.

#### ARTICLE IX.

All sums of money which may be awarded by the Commissioners, or by the arbitrator or umpire, on account of any claim, shall be paid in coin or its equivalent

by the one Government to the other, as the case may be, within twelve months after the date of the decision, without interest.

#### ARTICLE X.

The High Contracting Parties engage to consider the result of the proceedings of this Commission as a full and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present Convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said Commission, shall, from and after the conclusion of the proceedings of the said Commission, be considered and treated as finally settled and barred.

#### ARTICLE XI.

The Commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them.

The Secretary shall be appointed by the Principal Secretary of State for Foreign Affairs of Her Britannic Majesty, and by the Representative of the United States in London, jointly.

Each Government shall pay the salaries of its own Commissioners. All other expenses, and the contingent expenses of the Commission, including the salary of the Secretary, shall be defrayed in moieties by the two Parties.

#### ARTICLE XII.

The present Convention shall be ratified by Her Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at London as soon as may be within twelve months from the date hereof.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the tenth day of November, in the year of our Lord one thousand eight hundred and sixty-eight.

(L.S.) STANLEY.  
(L.S.) REVERDY JOHNSON.

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No. 16.

*Lord Stanley to Mr. Thornton.*

Sir, *Foreign Office, November 10, 1868.*  
WITH reference to my despatch of the 17th ultimo, I transmit, for your information, a copy of a Protocol which I have this day signed with Mr. Reverdy Johnson, recording the agreement of Her Majesty's Government and that of the United States to refer the disputed question of boundary to the decision of the President of the Swiss Confederation.

I am, &c.  
(Signed) STANLEY.

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Inclosure in No. 16.

*Protocol recording the Agreement of Her Majesty's Government and the United States to refer the disputed Question of Boundary to the decision of the President of the Swiss Confederation.*

THE Undersigned, Edward Henry Lord Stanley, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, and Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, being respectively authorized and empowered by their Governments, hereby declare that the said Governments agree to refer the disputed question of boundary which

forms the subject of the Protocol signed by them on the 17th of October last, to the decision of the President of the Federal Council of the Swiss Confederation.

Done at London, the 10th of November, 1868.

(Signed)

STANLEY.  
REVERDY JOHNSON.

No. 17.

*Lord Stanley to Mr. Thornton.*

Sir,

*Foreign Office, November 24, 1868.*

WITH reference to my despatch of the 10th instant, I transmit herewith, for your information, three copies of an Additional Article to the Convention which was signed on the above date, for the settlement of all outstanding claims between Great Britain and the United States.

I am, &c.  
(Signed) STANLEY.

Inclosure in No. 17.

*Additional Article to Claims Convention, November 23, 1868.*

WHEREAS by Article I of the Convention between Her Britannic Majesty and the United States of America, signed at London on the 10th day of November, 1868, for the settlement of all outstanding claims, it was agreed that the Commission thereby stipulated to be appointed for the investigation and decision of such claims should meet at London;

And whereas it has since appeared desirable that the place of meeting of the said Commission should be Washington;

The Plenipotentiaries who signed that Convention, having met together, have agreed to substitute Washington for London as the place for the meeting and sitting of the Commission aforesaid. They have further agreed that the Secretary of the Commission shall be appointed by the Representative of Great Britain at Washington and by the Secretary of State of the United States, jointly, instead of in the manner provided by Article XI of the Convention.

The present Additional Article shall have the same force and effect as if it had been inserted, word for word, in the Convention of the 10th of November, 1868. It shall be ratified, and the ratifications shall be exchanged at the same time as those of the Convention.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the twenty-third day of November, in the year of our Lord one thousand eight hundred and sixty-eight.

(L.S.)

STANLEY.

(L.S.)

REVERDY JOHNSON.

No. 18.

*Lord Stanley to Mr. Thornton.*

Sir,

*Foreign Office, November 27, 1868.*

I HAVE received your telegraphic despatch of to-day's date, informing me that difficulties have been raised by the Government of the United States in regard to the Claims Convention recently signed by Mr. Reverdy Johnson and myself, and that they are of opinion, in which you concur, that the Convention as it now stands would not be sanctioned by the Senate.

You also mention that the United States' Cabinet are anxious that the Convention should be passed, and have asked you to come home to explain their objections to it, and to endeavour to induce Her Majesty's Government to make modifications in it.

I have this day informed you by telegraph that I see no necessity for your



returning to England, and have instructed you to inform me by telegraph of the points objected to by the United States' Government, and of the grounds on which their objections have been raised.

I am, &c.  
(Signed) STANLEY.

## No. 19.

*Mr. Reverdy Johnson's Instructions.—(Communicated to Lord Stanley by Mr. Reverdy Johnson, December 1, 1868.)*

THE following amendments to British printed copy are essential in the Claims Treaty. Article 1st, line twenty, insert after "President," "by and with the advice and consent of the Senate." Same Article 1, second paragraph, strike out "London," and insert "Washington." Same Article 1, third page, strike out "save as otherwise provided in Article IV of this Convention."

Article II<sup>nd</sup>, strike out the last paragraph entire.

Article IV, strike out all after word "claims" in fourth line, or, if preferred, omit the whole of Article IV.

Article V. If Article IV is amended and changed as above proposed, Article V may stand without amendment. If Article IV is omitted entirely, then amend Article V, line two, by striking out the words "mentioned in the next preceding Article."

Article VI. Either omit the whole Article, or substitute the following therefor: In case of every claim the official correspondence which has taken place between the two Governments respecting the questions at issue shall be brought before the Commissioners, and in the event of their not agreeing to have decision thereupon, then before the arbitrator. Either Government may submit further evidence and further argument thereupon written or verbal.

Article IX. Strike out "twelve," and insert "eighteen."

Article XI, second paragraph. Strike out all after the word "the," and insert "the Representative of Her Britannic Majesty at Washington and the Secretary of State of the United States jointly."

If these amendments be not accepted, let San Juan remain in Protocol. If they are accepted, sign the Claims Convention and change San Juan Protocol into Convention, and sign the same.

Full go by post; but time is important.

## No. 20.

*Lord Stanley to Mr. Thornton.*

Sir,

*Foreign Office, December 8, 1868.*

I UNDERSTAND from your telegraphic despatch of the 27th ultimo that Mr. Seward and the Cabinet of Washington disapprove of the Convention which the United States' Minister signed with me on the 10th ultimo, for the settlement of British and American claims, on the ground that it is not in accordance with the instructions sent to Mr. Johnson, and that they are confident that the Senate will refuse to sanction it. I have learnt from your further telegram received on the 30th ultimo the very important modifications which Mr. Seward wishes to be made in that agreement.\*

I have received this intelligence with some surprise, as during the progress of our negotiations, Mr. Johnson at no time intimated to me that he was not acting under sufficient instructions from his Government; indeed, when framing with him the Memorandum which was the groundwork of, and is, in fact, embodied in the Convention, I distinctly understood from him that he thought their approval was certain, and subsequent to the signature of the Convention, I was further informed by him that Mr. Seward had stated in a telegraphic despatch that if the place of meeting of the Commission was Washington and not London, "all will be right." This point having been conceded, Her Majesty's Government had every reason to suppose that the Convention was in other respects accepted by the Cabinet of

\* These are stated in No. 19.

Washington as it stood, with a fair hope that it would ultimately receive the sanction of the Senate of the United States.

Under these circumstances I think it right to place on record in a despatch a full narrative of the communications which have passed between Mr. Johnson and myself on the question of the claims, and which led to the signature of the Convention of the 10th of November, and of the separate Article attached to it.

In a conversation which took place at the Foreign Office on the 25th of September, Mr. Johnson, after discussing with me the subject of naturalization, passed to that of the so-called "Alabama" claims. In this conversation, of which a memorandum is inclosed, extracted from my notes of the interview, Mr. Johnson first suggested, as a means of settlement, the payment of a lump sum of money, or a cession of territory by Great Britain, both of which plans I considered inadmissible, so long as the question of the liability of Great Britain was denied by us, and remained undecided. Mr. Johnson then spoke of the manner in which arbitration, if agreed upon, might be carried out, and made a suggestion that the questions in dispute with regard to these claims might be referred to the decision of a certain number of individuals, to be selected for their acquaintance with the principles at issue. He said that these persons need not be subjects of either of the two countries directly concerned. Without committing myself to any positive decision on this point, I said that although such a proceeding would be contrary to the usual practice in such cases, I did not at the moment see any objection to it so vital as to make it *ab initio* inadmissible, provided the other points of difference were satisfactorily arranged. This conversation, so far as it related to the "Alabama" claims, was understood to be of a confidential and unofficial character, Mr. Johnson having no authority to deal with that question, till the question of naturalization had been disposed of. Nothing, therefore, passed which could be held to bind either party.

After signing the Protocol on Naturalization on the 9th of October, Mr. Johnson entered with me on the discussion of the San Juan question. During the progress of the negotiations he communicated, confidentially, an extract of his instructions, to the following effect:—"Our conclusion is, that in the event that you become convinced that an arrangement of the naturalization question, which would be satisfactory to the United States in view of your previous instructions, can be made,—then, and in that case, you may open concurrent negotiations upon the two questions first herein named, to wit, San Juan and the Claims Questions; but that those two negotiations shall not be completed, or your proceedings therein be deemed obligatory, until after the naturalization question shall have been satisfactorily settled by Treaty or by law of Parliament."

In consequence of this clause in his instructions, Mr. Johnson stipulated that the agreement on the San Juan arbitration should be embodied in a Protocol instead of a Treaty, and that a provision should be inserted making its operation dependent on the satisfactory settlement of the naturalization question by Treaty, or by Law of Parliament, or by both. To which clause the words, "unless the two Parties shall in the mean time otherwise agree," were added at my suggestion.

The Protocol on the San Juan question having been signed on the 17th of October, Mr. Johnson called, by appointment, on the 20th of the same month to discuss with me the question of the claims. In this conversation, which is placed on record in my despatch to you of the 21st, Mr. Johnson proposed that "all the claims on both sides should be referred to the decision of Commissioners who should be, in equal numbers, British subjects and American citizens; who, if they disagreed, should have power to call in an umpire, and whose decision, with such assistance, should be final."

I objected to this plan, for reasons given at length in the despatch, and said that for these reasons it seemed to me preferable that the arbitrator proposed should be the Sovereign or President of a friendly State. I named especially the King of Prussia, as likely to be acceptable to both parties. Mr. Johnson said that he was not instructed to accede to the proposal I had made, but would telegraph for permission to do so.

Mr. Johnson called on the 29th of October to convey the answer of his Government, and a Memorandum of his communication is inclosed.

From this statement it appears that Mr. Seward conceived that "there would be a prejudice on one side or the other against any Arbitrator who might be named beforehand to decide on this specific question." He proposed, therefore, that "each Government should, in the first place, name Commissioners, two on each side, to

adjudicate on all claims by the subjects or citizens of either country on the other, arising out of the late civil war in the United States." "The two Governments, in addition, to agree on an Arbitrator or Arbitrators, to whose final decision shall be referred any question connected with such claims on which the Commissioners shall be unable to come to an agreement among themselves." "In the event of this plan being adopted, it would appear expedient further to provide that neither Government should make out a case in support of its position with regard to any class of claims, but that any question on which difficulties may arise between the Commissioners should go from them to the Arbitrator as it stands."

On the 3rd of November Mr. Johnson again called on me at the Foreign Office, by appointment, for a Conference, at which the Attorney-General, at my instance and with Mr. Johnson's consent, was also invited to be present, and at this meeting a Memorandum was drawn up, of which a copy is also inclosed, embodying the result arrived at, and to which Mr. Johnson was understood to assent on behalf of his Government.

It is on the bases laid down in this Memorandum that the Convention of the 10th of November is founded.

The Memorandum was submitted by me to the Lord Chancellor and the Prime Minister, and upon their suggesting some verbal alterations for the sake of greater clearness, I sent a copy on the 4th of November, with the revisions marked, to Mr. Johnson, to ask whether he saw any objection to them.

Mr. Johnson replied the next day that he had no objection to the alterations, with one exception, in which he suggested the substitution of an English version for the Latin words "*pro hac vice*," which it was proposed to introduce. Mr. Johnson said that he did not see that these words affected the sense of the Article at all, but that others might suppose that they did, and he might be asked for an explanation, which would lead to delay. He added, "It is important, I think, that the Convention be signed at the earliest moment, and I will thank your Lordship to let me know when you can see me on the subject, as there are some matters of detail yet to be agreed upon."

I accepted at once the single modification proposed by Mr. Johnson in the Memorandum, and a Protocol was drawn up in the terms specified, and submitted to the Law Officers of the Crown for their opinion. But as Mr. Johnson had used the word "Convention" in his note of the 5th of November, I wrote to him to ask "whether he would be ready to sign an actual Convention on the subject, or whether he would still prefer to adhere to the form of a Protocol, similar to those in which the results of the former negotiations on the Naturalization and San Juan questions had been recorded."

To this Mr. Johnson replied, on the same day, in the following terms: "I will sign a Convention instead of a Protocol on the matters now unsettled, as I consider that I am authorized to do so by the cable despatch from Washington, which I showed you, taken in connection with my original instructions. But will you consider them equivalent to a formal full power? If you do, have an agreement drawn up in that form."

Upon the receipt of this note, a Draft Convention was drawn up, and I forwarded it to Mr. Johnson on the 7th of November, stating that I was ready to sign such a Convention, to be signed by Mr. Johnson *sub spe rati*, in the absence of formal powers.

Mr. Johnson called on the 9th of November, and discussed the provisions of the Convention at length, proposing various alterations. He particularly insisted on the necessity of the Commission sitting at Washington and not at London; but on being shown the inconvenience of such an arrangement, and the delay which would arise in the reference of disputed points and production of further evidence as regards the "Alabama" claims, he finally waived the point.

The Convention, with such alterations as had been adopted, was then drawn out and signed on the 10th of November.

On the 12th of November Mr. Johnson called at the Foreign Office, and, as I was then absent at Lynn, he wrote me a private note to the effect that he had "just received a telegraphic message from Mr. Seward, saying, Claims Convention entirely acceptable, except as to the place of meeting, and that it is essential to its approval by the Senate that the place be Washington and not London." After some delay, in consequence of my absence from town, a telegram was received from you in the same sense.

I then agreed to the alteration, though I still considered that it would be

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productive of inconvenience, and an additional Article to carry the change into effect was signed on the 23rd of November.

Matters remained in this state until the receipt of your telegram of the 27th of November, up to which time I was under the impression, which was also shared in by Mr. Johnson, that the Convention which had been signed, being in accordance with his instructions as construed by him, would meet with the approval of the United States' Government.

I am, &c.  
(Signed) STANLEY.

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Inclosure 1 in No. 20.

*Memorandum of Conversation between Lord Stanley and Mr. Reverdy Johnson, at the Foreign Office, September 25, 1868.*

THE first subject touched upon was that of naturalization. Lord Stanley explained the difficulties which lay in the way of the signature of the Treaty, but threw out the idea of a Protocol, to recognise, subject to the passing of an Act of Parliament, the principle that subjects of either country, becoming naturalized in the other, should be released from their native allegiance. Mr. Johnson expressed himself quite favourable to such an arrangement, and seemed to think that it would be satisfactory.

As regards the San Juan boundary, Mr. Johnson said that he should be ready to agree, in the name of the United States' Government, to arbitration as soon as the Naturalization question was once disposed of.

The conversation then turned on the "Alabama" claims. Mr. Johnson adverted generally, though not in the form of distinct proposals, to various methods by which this question might be settled. His first suggestion was the payment of a lump sum of money. Lord Stanley at once declared this to be inadmissible so long as the question of our being liable at all was denied by us and undecided by any mode of reference. Mr. Johnson then talked of some cession of territory, an idea which Lord Stanley did not think more promising. Finally, in the supposition that arbitration was the only means to be resorted to, Mr. Johnson talked over the manner in which such arbitration could be arranged, and suggested that a certain number of individuals should be selected, distinguished for their acquaintance with the principles at issue, to whom the questions in dispute should be referred. It was understood that these persons should of course not belong to either of the two countries. Lord Stanley answered in general terms, and without distinctly committing himself either way, that such a proceeding would be contrary to the usual practice in such cases, but that he did not at the moment see any objection to it so vital as to make it, *ab initio*, inadmissible, provided the other points of difference were satisfactorily arranged.

It was understood on both sides that the conversation, so far as it related to the "Alabama" claims, was of a confidential and unofficial character, Mr. Johnson having no authority to deal with that question till naturalization was disposed of. Nothing therefore passed which could be held to bind either party.

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Inclosure 2 in No. 20.

*Memorandum of Conversation between Lord Stanley and Mr. Reverdy Johnson, October 29, 1868.*

AT the last interview which Mr. Johnson had had with Lord Stanley on the 20th instant, he had agreed to telegraph to his Government to ask whether they would consent to the question of the liability of Great Britain for the so-called "Alabama" Claims being referred to the arbitration of the King of Prussia. He now called to communicate Mr. Seward's answer to that proposal.

Mr. Seward is of opinion that there would be a prejudice on one side or the other against any Arbitrator who might be named beforehand to decide on this specific question, and suggests a plan by which he thinks this difficulty may be avoided.

He proposes that the two Governments should in the first place name

Commissioners, two on each side, to adjudicate on all claims by the subjects or citizens of either country on the other arising out of the late civil war in the United States. Each Government to name its own Commissioners.

The two Governments, in addition, to agree on an arbitrator or arbitrators, to whose final decision shall be referred any question connected with such claims on which the Commissioners shall be unable to come to an agreement among themselves.

It may be presumed as a matter of course that the Commissioners will differ as to the admissibility of the Alabama and similar claims. The question will then be referred by them to the arbitrator with whom the decision will thus virtually rest.

In the event of this plan being adopted it would appear expedient further to provide that neither Government should make out a case in support of its position with regard to any class of claims, but that any question on which difference may arise between the Commissioners should go from them to the arbitrator as it stands.

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Inclosure 3 in No. 20.

*Memorandum of the result of a Conference between Lord Stanley, Mr. Reverdy Johnson, and the Attorney-General, at the Foreign Office, November 3, 1868.*

[The alterations in red ink show the manner in which the Memorandum was revised at the meeting between Lord Stanley, the Lord Chancellor, and Mr. Disraeli, November 4, 1868. This copy was sent privately to Mr. Reverdy Johnson, to know if he concurred in those alterations, and returned by him with a suggestion, as marked, on paragraph 3.]

IT is proposed by Mr. Reverdy Johnson on behalf of the Government of the United States:

1. That the two Governments shall, in the first place, name Commissioners, two on each side, to determine all claims by subjects or citizens of either country on the other, whether or not arising out of the late civil war in the United States, subject to the qualification mentioned under Section 3 **other than those hereinafter mentioned.**

2. The said Commissioners to agree on an Arbitrator to whose final decision shall be referred any claim <sup>except as hereinafter mentioned</sup> upon which the Commissioners differ.

3. The Commissioners to have power to adjudicate upon the so-called "Alabama" and other similar claims; <sup>but</sup> before such last-mentioned claims are taken into consideration by the Commissioners, the respective Governments to fix upon some Sovereign or Head of a friendly State, <sup>as an Arbitrator *à la vice*</sup> to whom the whole of such questions shall be referred in the event of the Commissioners disagreeing upon the same.

4. In the event of a decision on any of such last-mentioned claims being arrived at, involving a question of compensation to be paid, the amount of such compensation to be referred back to the Commissioners for adjudication, and, in the event of their differing, then to the Arbitrator appointed by them under the second Section.

5. The awards of the Commissioners in all cases to be unanimous. Otherwise the matter in dispute to go to the Arbitrator.

6. In regard to the so-called "Alabama" claims, and others included under the same head, it is agreed that neither Government shall make out a case in support of its position, but that the questions at issue, as set forth in the official correspondence between the two Governments, shall be referred to the Commissioners, and, in the event of their making no award, then to the Arbitrator, without comment or the production of further evidence, unless such evidence or argument shall be called for by the Commissioners or Arbitrator as the case may be.

\* Alteration proposed by Mr. Reverdy Johnson, and accepted by Lord Stanley, "as to such claims."

## Inclosure 4 in No. 20.

*Lord Stanley to Mr. Reverdy Johnson.*

Dear Mr. Johnson,

*Foreign Office, November 4, 1868.*

I HAVE been in consultation with some of my colleagues respecting the proposal for referring the British and American claims to arbitration, and some verbal alterations have been suggested in the Memorandum drawn up at our Conference yesterday.

I inclose a copy of the Memorandum, with the revisions marked in red ink, and shall be obliged by your letting me know whether you see any objection to them. They are simply introduced for the sake of greater clearness.

Believe me, &c.  
(Signed) STANLEY.

## Inclosure 5 in No. 20.

*Mr. Reverdy Johnson to Lord Stanley.**Legation of the United States, London,  
December 5, 1868.*

My dear Lord Stanley,

I HAVE just received your note of last evening, with its inclosure, and hasten to say that I have no objection to the alterations suggested in the latter. I would prefer, however, that the words *pro hac vice* inserted in the IIIrd Article should be omitted. I do not see that they affect the sense of the Article at all, but others may suppose that they do; and I may be asked for an explanation, which would lead to delay. I would suggest, therefore, that instead of those words we substitute "as to such claims." It is important, I think, that the Convention be signed at the earliest moment; and I will thank your Lordship to let me know when you can see me on the subject, as there are some matters of detail yet to be agreed upon.

With sincere regard, &c.  
(Signed) REVERDY JOHNSON.

## Inclosure 6 in No. 20.

*Lord Stanley to Mr. Reverdy Johnson.*

Dear Mr. Johnson,

*Foreign Office, November 6, 1868.*

I SHALL be most happy to see you here on Monday at 12. I see no objection to the words *pro hac vice* being omitted, and "as to such claims" substituted.

Very truly yours,  
(Signed) STANLEY.

## Inclosure 7 in No. 20.

*Lord Stanley to Mr. Reverdy Johnson.*

Dear Mr. Johnson,

*Foreign Office, November 6, 1868.*

IN order to expedite matters, I am having the Memorandum as to the settlement of the claims put into formal shape, so that any further addition which may be adopted at our next meeting, may be inserted with the least possible delay.

For this purpose I should be glad to know whether you would be ready to sign an actual Convention on the subject, or whether you would still prefer to adhere to the form of a Protocol, similar to those in which the results of our former negotiations on the Naturalization and San Juan questions have been recorded.

I make the inquiry, as you use the word "Convention" in your note of yesterday.

Believe me, &c.  
(Signed) STANLEY.

## Inclosure 8 in No. 20.

*Mr. Reverdy Johnson to Lord Stanley.**Legation of the United States, London,  
November 6, 1868.*

My dear Lord Stanley,

I WILL sign a Convention instead of a Protocol, on the matters now unsettled, as I consider that I am authorized to do so by the cable despatch from Washington, which I showed you, taken in connection with my original instructions. But will you consider these equivalent to a formal full Power? If you do, have an agreement drawn up in that form.

I remain, &c.  
(Signed) REVERDY JOHNSON.

## Inclosure 9 in No. 20.

*Lord Stanley to Mr. Reverdy Johnson.*

Dear Mr. Johnson,

*Foreign Office, November 7, 1868.*

I AM ready to sign a Convention with you on the Claims question, to be signed by you, *sub spe rati*, in the absence of formal full powers.

I accordingly inclose a draft, founded on the terms of the Memorandum, with such additions as are necessary to define the action of the Commission, &c.; these additions being principally taken from the Convention concluded between the two Governments in 1853 for the settlement of Claims, of which instrument I also send you a copy.

Believe me, &c.  
(Signed) STANLEY.

## Inclosure 10 in No. 20.

*Mr. Reverdy Johnson to Lord Stanley.*

My dear Lord Stanley

*4, Upper Portland Place, November 12, 1868.*

I HAVE just received a telegraphic despatch from Mr. Seward, saying Claims Convention entirely acceptable, except as to the place of meeting; and that it is essential to its approval by the Senate that the place be Washington and not London. I think the change will be disadvantageous to the "Alabama" claimants; but if he is right, that it is necessary to the final ratification, I hope you will not object to it.

Let me know, by telegram or mail, at your earliest convenience; if by telegram, say, "Have no objection."

Yours truly,  
(Signed) REVERDY JOHNSON.

## No. 21.

*Mr. Thornton to Lord Stanley.—(Received December 12.)*

(Extract.)

*Washington, November 30, 1868.*

MR. SEWARD received, on the 24th instant, the Convention upon Claims signed by your Lordship and Mr. Reverdy Johnson on the 10th instant. It was taken into consideration on the same day at the meeting of the Cabinet, and rumours were current soon after that the Government were sorely disappointed at its contents, which were pronounced to be unsatisfactory.

I had the honour to receive the copy sent me by your Lordship on the following day, the 25th instant.

On the 26th, Mr. Seward called upon me, and informed me that the contents of the Convention were not in accordance with the instructions which had been given to Mr. Reverdy Johnson, that the President and his colleagues could not approve of certain of the stipulations comprised therein; and that they were unanimously of opinion that in its present form the Convention would not receive



the sanction of the Senate. Upon the latter point I could not but concur. Mr. Seward confessed that it was possible that some excuse might be made for Mr. Johnson's not having kept more closely to his instructions, because, as some of these were given by telegrams in answer to Mr. Johnson's questions sent by the same channel, Mr. Seward may have misunderstood the former, and Mr. Johnson may not have fully comprehended the instructions sent in reply.

But, wherever the fault lay, Mr. Seward proceeded to assure me that his Government earnestly desired that a good work, which had been brought so nearly to a satisfactory conclusion, should not at the last moment fail; and that, consequently, although they acknowledged that your Lordship would be justified in declining to reopen negotiations, they hoped that, in consideration of the importance of the subject, you would not do so, but would consent to some modifications of the Convention which would render it acceptable to the Senate. At the same time, he expressed his sense, and that of his colleagues, of the difficulty which would be encountered of explaining by correspondence why the Convention in its present shape is objectionable, and that they had considered the expediency of sending some one to England for the purpose of doing this verbally. It was at first proposed that either Mr. Evarts, now Attorney-General, who during the war was well known in England, or Mr. Seward himself, should undertake this mission; but upon examination it was found that, besides other reasons which rendered this step unadvisable, the President had not the power to allow either of these gentlemen to entrust to any one else, even for a short time, the duties of their offices. It was therefore proposed, and the President commissioned Mr. Seward to ask me whether I would consent to go to England for the purpose of laying the circumstances of the case before your Lordship. I at once replied that I could not do so without your Lordship's leave, but would consider whether I should ask for it by telegram. At the same time I pointed out to him that so sudden a visit to England might give rise to suppositions and rumours in this country, which might be prejudicial to the end we both had in view. It was agreed that I should again see Mr. Seward on the next day, when he would explain to me more fully the objections which were made to the Convention in its present form. But before he left me I pointed out to him that unless the Convention were finally accepted by the United States, the latter would be in a bad position in the eyes of the world if, after Her Majesty's Government had consented to all that was asked by the Representative of the United States, the Government and Senate of the latter should refuse to confirm what he had signed, and that I therefore hoped a conciliatory spirit would be shown in the fresh instructions now about to be given. Mr. Seward did not deny the truth of my observation, but replied that such a feeling would pass off, and the conviction would remain that the United States were determined to keep the question open—a state of things which, with regard to future eventualities, might be more injurious to England than to this country. He assured me, however, in the most earnest manner, that he was convinced that the Senate would sanction the Convention if it were modified in the manner which he should now propose.

Upon reflection I determined to send to your Lordship my telegram of the 27th instant.\*

On the following day I had an interview with Mr. Seward, during which he read me the draft of a despatch which he intended to send to Mr. Reverdy Johnson; and, after the receipt of your Lordship's telegram of the 28th instant, I paid him another visit. I understand that a telegram was sent to Mr. Johnson on the evening of the 27th instant, and that the despatch, of which the draft had been read to me, left New York on the 28th instant. These two contained the modifications proposed by Mr. Seward, and which I proceed to detail more fully than was possible in the telegram which I had the honour of forwarding to your Lordship to-day.†

Mr. Seward has pointed out to Mr. Reverdy Johnson that he had always intended, and had so instructed him, that a Protocol, not a Convention, should be signed with regard to the "Alabama" and war claims, in the same manner, and with the same condition, as that upon the San Juan question. I have certainly always understood this to be the case, and I believe that my correspondence with your Lordship has given indications of this conviction on my part. Mr. Seward explains that he had proposed this step, not from any want of confidence that a Bill would be submitted by Her Majesty's Government to Parliament for modifying

\* See No. 18.

† See No. 19.



the existing laws of allegiance, but because he preferred that the Senate should be conciliated by the stipulations being submitted to them in the form of a Protocol, which would be as it were a mode of asking their advice whether a Convention might be signed in the same terms, their sanction of which would thus be insured. I now gather, however, from Mr. Seward's despatch that he has authorized Mr. Johnson, should your Lordship wish it, and should you consent to the proposed modifications, to sign Conventions on all the three questions—Naturalization, San Juan, and Claims—or on any two of them.

The first change asked by Mr. Seward is that in line 20 of the 1st Article should be inserted after the word "States" the words, "by and with the advice and consent of the Senate." Your Lordship will easily understand that this is not a *sine quâ non*, but is proposed as a mark of deference to the Senate on the part of the President, and as the more expedient on account of the recent conflict between the Congress and the President, and, therefore, more likely to disarm opposition. It is a change to which I imagine Her Majesty's Government would have no objection.

To the change of the place of meeting of the Commission from London to Washington your Lordship has already signified your willingness to assent.

The proposal to cancel in line 44 from the word "save" to the word "Convention," and the last paragraph of Article II, is a consequence of Mr. Seward's petition that the whole of Article IV should also be cancelled. The United States' Government declare that the second period of this Article contains an unjust discrimination against the "Alabama" claims as compared with other American and the British claims.

Mr. Seward asserts that he instructed Mr. Johnson to endeavour to conclude a Protocol with your Lordship as similar as possible to the Convention of 1853, and that he never contemplated such a deviation from the stipulations contained in the latter as would render the new arrangement unfair towards the "Alabama" claimants. The United States' Government consider Article IV unfair, because it stipulates that only one Umpire shall be named; that he shall be chosen by the High Contracting Parties and not by the Commissioners; and that he must be a Sovereign or Head of a State; whereas with regard to the other American and the British claims, the Commissioners are to choose the Umpire or Umpires, who may be any person or persons they may select, without respect to class.

Whilst upon this point, I should observe that I gathered from Mr. Seward that his Government would not object to a Sovereign or Head of a State being named by the Commissioners as Umpire or Umpires, and that they would even consent to give their Commissioners instructions to that effect, but that the Senate would not probably sanction its being mentioned in the Protocol, because it would be different from the Convention of 1853. I even believe that if the Commission were actually installed here, before the present Administration should leave office, the President might be induced to instruct the United States' Commissioners to consent to the choice of the King of Prussia as Umpire, should he be proposed by the English Commissioners.

The United States' Government likewise object to the unanimous decision required by Article IV for "Alabama" claims, whereas the other claims may be decided by a majority of the Commissioners. This they consider unjust, and are even more sensitive about it than upon the subject of the Umpire. They would, however, have no objection to the first sentence of Article IV as far as the semicolon, if your Lordship should wish that it should remain, although no instructions had been previously given to Mr. Johnson to make any positive declaration with regard to the "Alabama" claims, so as to distinguish them from the others.

If Article IV were cancelled, Article V would naturally have the same fate.

The United States' Government strongly object to Article VI, because it does not allow either Government to make out a case in support of its position, nor any person to be heard for or against the "Alabama" claims; whereas both these steps are allowed with regard to other claims, and they do not see why a prejudicial distinction should be stipulated in the Convention against the "Alabama" claims, which would render the sanction of the Senate more doubtful, although they acknowledge that little could be added to what is contained in the official correspondence. They also object, for the reasons already mentioned, to the decision being necessarily unanimous, both with regard to the claims themselves, or to the calling for argument or further evidence. They therefore ask that Article VI may be cancelled, or that it may be substituted by the following words:—

"In case of every claim, the official correspondence which has already taken place between the two Governments respecting the question at issue shall be laid before the Commissioners, and in the event of their not coming to a decision thereupon, then before the Arbitrator: either Government may also submit further evidence and further argument thereupon, written or verbal."

Mr. Seward further proposes that in Article IX, eighteen months may be substituted for twelve months, because circumstances may arise which may delay the assignment of the necessary sums for the payment of the claims by the House of Representatives, as happened lately with regard to the payment to Russia for the Alaska territory.

Finally, Mr. Seward asks for a change of the second paragraph of Article XI which is merely consequent upon the change of the place of meeting of the Commission from London to Washington.

Should your Lordship be able to agree to these modifications, Mr. Seward has repeatedly assured me that the Senate are committed to the acceptance of the Convention so modified, and that he is convinced they will sanction it.

No. 22.

*Mr. Seward to Mr. Reverdy Johnson.—(Communicated to the Earl of Clarendon by Mr. Reverdy Johnson, December 22.)*

Sir,

*Department of State, Washington, November 27, 1868.*

I HAVE received your despatch of the 10th of November, which is accompanied by a Convention which you signed with Lord Stanley, at London, on the 10th instant, for the settlement of all outstanding claims. Your despatch gives your reasons for assenting to the Convention, and especially to some of its provisions.

Having submitted these papers to the President, I am now to give you his directions concerning the matters thereby presented. In order to do this with greater perspicuity, I shall take notice of the several Articles contained in the Convention in their proper order.

Article I provides for the appointment of four Commissioners for the adjustment of mutual claims; two to be named by Her Britannic Majesty, and two by the President of the United States. In the event of any Commissioner omitting or ceasing to act, Her Britannic Majesty, or the President of the United States, as the case may be, shall name another person to act as Commissioner instead of the Commissioner originally named. Article I further provides that the Commissioners shall meet at London, and make and subscribe a solemn declaration therein prescribed. This declaration shall be entered of record. The Article further provides that the Commissioners shall then, and before proceeding to any other business, name some person to act as Arbitrator or Umpire, to whose final decision, save as otherwise provided in Article IV, shall be referred any claim upon which they may not be able to come to a decision.

If they should not be able to agree upon an Arbitrator or Umpire, the Commissioners on either side shall name a person as Arbitrator or Umpire, and in each and every case in which the Commissioners may not be able to come to a decision, the Commissioners shall determine by lot which of the two persons so named shall be Arbitrator or Umpire in that particular case. The person or persons so to be chosen as Arbitrator or Umpire shall make and subscribe the same solemn declaration which is prescribed to the Commissioners, and it is to be entered of record. In the event of the death, absence, incapacity, or failure of such Arbitrator or Umpire, another shall be named to act as Arbitrator or Umpire in the same manner as the person originally named.

In regard to this Article—

Ist. I remark that we must require that it may be amended so as to provide that the Commissioners to be named on the part of the United States shall be named by the President, by and with the advice and consent of the Senate of the United States. It is not doubted that this ought to be, as it probably would be taken to be, the meaning of the Convention as it now stands. Nevertheless, with the view to avoid possible misapprehension, it is desirable that the Article should be amended so as to make the provision literally conform in this respect to the constitution of the United States. Of course Her Majesty's Government can have no objection to this amendment.

2ndly. We are advised that, in accordance with my suggestions heretofore made by cable telegram, Her Majesty's Government have consented to amend the 1st Article so as to substitute Washington instead of London for the place of the meeting of the Commissioners. This amendment will be expected to be finally made.

3rdly. We must insist upon amending this 1st Article by striking out the words "save as otherwise provided in Article IV of this Convention." Our reasons for this amendment will fully appear in my commentary upon Articles IV, V, and VI. You are authorized to say that, with these amendments, Article I would be satisfactory to the President of the United States.

I proceed to Article II.

Article II prescribes certain forms and rules for the proceedings of the Commissioners, and provides that each Government may name one person to attend the Commissioners as agent upon its behalf, to present and support claims on its behalf, to answer claims made upon it, and to represent it generally. Article II closes with the following paragraph:—"The provisions of this Article shall, however, be subject to the special arrangements made by Articles IV, V, and VI of this Convention, respecting the claims which form the subject of these Articles, which shall be dealt with as directed in those Articles."

The United States must insist on striking out this last paragraph of Article II, for the reasons which appear in the remarks hereinafter made on Articles IV, V, and VI. You are authorized to say that, with this exception, Article II would be satisfactory to the President.

I pass to Article III.

Article III fixes the periods within which claims shall be submitted, examined, and decided. This Article is unobjectionable, and is entirely approved.

I have thus come to Article IV.

Article IV specially declares that the Commissioners shall have power to adjudicate upon the class of claims referred to in the official correspondence between the two Governments as the "Alabama" claims, but declares that before any such claims are to be taken into consideration by them, the two High Contracting Parties shall fix upon some Sovereign or Head of a friendly State as an Arbitrator in respect of such claims, to whom such class of claims shall be referred in case the Commissioners shall be unable to come to a unanimous decision upon the same.

The United States are obliged to disallow this Article IV. The United States have no objection to the first clause of the Article, which declares that the Commissioners shall have power to adjudicate upon the so-called "Alabama" claims. Indeed the United States would willingly retain this clause because of its explicitness in regard to the "Alabama" claims. They did not, in their instructions to you, insist upon such a special direction in regard to the "Alabama" claims, but only because they thought that special mention of those claims might be deemed inconvenient on the part of Her Majesty's Government; while it could not admit of doubt that these so-called "Alabama" claims were plainly included, as well as all other claims of citizens of the United States, in the comprehensive description of claims contained in Article I.

Secondly, it is to be considered by Her Majesty's Government that the "Alabama" class of claims constitute the largest and most material portion of the entire mass of claims of citizens of the United States against Great Britain, which it is the object of the Convention to adjust. Upon the "Alabama" claims, as well as all others, this Government is content to obtain, and most earnestly desires, a perfectly fair, equal, and impartial judicial trial and decision. This Government has always explicitly stated that it asks no discrimination in favour of the "Alabama" claims, and can admit of no material discrimination against them in the forms of trial or judgment, but must, on the contrary, have them placed on the same basis as all other claims. This Article IV, so far from placing them on an equal footing with the other United States' claims, and with the British claims, prejudicially discriminates against them in these respects:—

1. While the Convention provides that the other United States' claims, and the British claims shall be settled and determined by a majority of the Commissioners, this Article IV requires entire unanimity of the Commissioners for a decision upon any of the "Alabama" claims.

2. This Article IV further discriminates against the "Alabama" claims in this; that while the choice of an Arbitrator or Umpire in regard to all other than

he "Alabama" claims is left to be decided by lot in case of disagreement of the Commissioners, this Article IV provides that, in regard to the "Alabama" claims, the two Governments shall definitively agree in the appointment of an Arbitrator or Umpire.

3. This Article IV again discriminates against the "Alabama" claims in requiring, that in regard to those claims the Arbitrator or Umpire shall be some Sovereign or Head of a friendly State, while no such limitation is made in regard to any other class of claims.

The present negotiation was undertaken in the hope that the controversy about international claims, which has so long existed, and has been attended with so much national feeling on both sides, might be amicably settled and closed by adopting the very simple yet comprehensive principles and forms of reference and adjudication which were adopted with so much success under circumstances not very dissimilar, by the Convention for the adjustment of international claims of February 8, 1853. That Convention was proposed by the United States as a model which had already received the approval of both parties, and had the prestige of complete and even felicitous success. That Convention of 1853 had no reservations and no preference of, for, against, or concerning claims of any class of citizens or subjects of either nation. A judicial tribunal was constituted by it in a manner perfectly equal, just, and fair; and to that tribunal was confided the duty of hearing all claims of whatever separate classes, in only one and exactly the same manner, and deciding upon them in only one and exactly the same manner. It probably would conduce to no good end to set forth on this occasion the reasons why the "Alabama" claims, more than any other class of international claims existing between the two countries, are the very claims against which the United States cannot agree to, or admit of any prejudicial discrimination. To present those reasons now, would be simply to restate arguments which have been continually presented by this Department in all the former stages of this controversy, while it is fair to admit that those reasons have been controverted with equal perseverance by Her Majesty's Department for Foreign Affairs.

It is not to be understood by these remarks that the United States except against the possible designation of a Sovereign or Head of a friendly State as Arbitrator or Umpire in regard to the "Alabama" claims. On the contrary, the United States would not be unwilling to have so distinguished an Arbitrator or Umpire agreed upon by the Commissioners in any and, indeed, every case that shall come before them. All that is insisted upon is that the arbitrament of a Sovereign or Head of a nation, shall not be made unnecessary in regard to other United States' claims and British claims, and yet be made indispensable to the adjustment of the "Alabama" claims.

Article V provides, that in the event of a decision on any of the claims mentioned in the next preceding Article (Article IV), being arrived at by the Arbitrator, involving a question of compensation to be paid, then the amount of such compensation shall be referred back to the Commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the Arbitrator appointed by them, or who shall have been determined by lot, according to Article I.

I remark upon this Article V, that no objection will be made to it if it shall be so amended as to adapt it to the general structure of the Convention, after Article IV shall have been stricken out.

Article VI provides, that with regard to the "Alabama" class of claims, neither Government shall make out a case in support of its position, nor shall any person be heard for or against any such claim. The official correspondence which has already taken place between the two Governments respecting the questions at issue shall alone be laid before the Commissioners; and in the event of their not coming to an unanimous decision, as provided in Article IV, then before the Arbitrator without argument, written or verbal, and without the production of any further evidence. But the Commissioners, unanimously, or the arbitrator shall, however, be at liberty to call for argument or further evidence, if they shall deem it necessary.

The United States are obliged to disallow this Article in its present form, upon the principle set forth in my remarks upon Article IV, and for the reasons there given. The Article is believed to be superfluous, while the precautions it contains against allowing as full a hearing and examination of the Alabama claims as is allowed to all other American claims, and to British claims, would have the

mischievous effect of exciting unnecessary distrust in the Senate, and among the people of the United States, and it is presumed even among the people of Great Britain. The President confidently hopes that upon reconsideration of the subject Her Majesty's Government will consent to amend the Convention by striking out Article VI, or at least by amending it, so that Article VI will read as follows:—"In case of every claim, the official correspondence which has already taken place between the two Governments respecting the questions at issue, shall be laid before the Commissioners; and, in the event of their not coming to a decision thereupon, then before the Arbitrator, either Government may also, in either case, submit further evidence and further argument thereupon, written or verbal."

Article VII provides, that the decision of the Commissioners, or of the Arbitrator, or Umpire, as the case may be, shall be considered by both parties as absolutely final and conclusive, and full effect shall be given to such decisions without any objection or delay whatever.

This Article VII is approved.

Article VIII provides that no claim arising out of any transaction prior to the 26th of July, 1853, the day of the exchange of the ratification of the Convention of the 8th of February, 1853, shall be admissible under the Convention.

This Article VIII is approved.

Article IX provides that all sums of money which may be awarded by the Commissioners, or by the Arbitrator or Umpire, on account of any claim, shall be paid in coin or its equivalent, by the one Government to the other, as the case may be, within twelve months after the date of the decision, without interest.

In view, however, of possible delays of legislative appropriation in the two countries, the word "twelve" ought to be struck out, and the word "eighteen" inserted. Article IX, if so amended, would be accepted.

Article X provides that the High Contracting Parties engage to consider the result of the proceedings of the Commission as a full and final settlement of every claim upon either Government, arising out of any transaction of a date prior to the exchange of the ratifications of the present Convention, and further engage that every such claim, whether it shall have been presented to the notice of, made, preferred, or laid before the Commission, shall, from and after the conclusion of the proceedings of the Convention, be considered and treated as finally settled and barred.

This Article X seems unobjectionable, and is approved.

Article XI provides that the Commissioners shall keep an accurate record, and correct minutes or notes, of all their proceedings, with the dates thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them; that the Secretary shall be appointed by the Principal Secretary of State for Foreign Affairs of Her Britannic Majesty, and by the Representative of the United States in London, jointly; that each Government shall pay the salaries of its own Commissioners, and all other expenses, and the contingent expenses of the Commission, including the salary of the Secretary, shall be defrayed in moieties by the two parties.

I suggest that this Article XI shall be amended, first, by inserting after the word "Commissioners" in the first line, the words "and Arbitrator or Umpire;" and second, by striking out the second paragraph entirely, and substituting for it the words following:—"The Secretary shall be appointed by the Representative of Her Britannic Majesty in Washington, and by the Secretary of State of the United States, jointly." With these amendments, this Article XI will be satisfactory.

Article XII fixes a period within which the ratification of the Convention shall be exchanged.

The Article is unobjectionable, and is approved.

I close this despatch, as you might reasonably expect, with some remarks and directions upon the general subject of the negotiation.

It is sincerely hoped that the amendments I have proposed may be allowed by Her Majesty's Government. It is conceived that these amendments do not, in fact, change the character of the Convention, and that they do not secure to one party or deprive the other of any material advantage which the Convention allows in its present shape. All that they can accomplish is to relieve the Convention of any apparent spirit and tendency to prejudice the largest class of United States' claims before the Commission and the Arbitrator.

In assigning my reasons for requiring the amendments, I have confined myself within the narrowest possible limits, seeking to avoid all unnecessary argument or

controversy. You are authorized, however, to say I am of opinion that the amendments proposed are important to recommend the Convention to acceptance by the Senate and approval by the Congress of the United States.

The terms in which you have expressed yourself in your correspondence concerning the Convention leave no room to doubt that you have supposed that it would be satisfactory to the United States in its present shape. It is further believed that you may have expressed that opinion to Lord Stanley. Her Majesty's Government, disappointed in the expectation thus excited, may possibly be reluctant to continue the negotiation. In that case you are authorized to say that the transaction was conducted on the part of this Government by a large use of the cable telegraph; that you were expected by this Government to adhere more closely than you have done to the Convention of 1853 as a model, and were supposed to be so adhering while my telegraphic instructions written under that misconception were liable to be misunderstood by you as approving the departures you have made from that prescribed model. To this statement you will add the expression of regret on the part of this Government that this misunderstanding, which now seems to have been unavoidable, should have been the means of leading Her Majesty's Government to suppose that Articles IV, V, and VI might be expected to obtain the constitutional assent of the Government of the United States.

If on receiving this instruction you shall be able to bring the negotiation to a satisfactory conclusion, it will be better to have that conclusion expressed in the form of a Protocol rather than of a Convention. That form would be preferable over the form of a Convention in view of the discussions which any settlement of the subject might be expected to undergo in the Senate and among the people of the United States. It is not intended, however, by this remark to indicate any distrust of the acceptance of the Convention when amended as herein proposed. On the contrary, there is good reason to believe that such a settlement would be as promptly approved as its influence upon the relations of the two countries would be immediately felt and appreciated.

It remains only to say that in view of the present situation of the Claims Convention, it is expedient to let the satisfactory settlement of the Naturalization question and the San Juan question rest in Protocol. On the other hand, should Her Majesty's Government accept the amendment of the Claims Convention herein proposed, you are authorized in that case to reduce the three or either two of these agreements to the forms of distinct Conventions, and to sign and transmit them at once to this Department to be laid before the President for ratification.

To facilitate your understanding of this despatch I give you herewith a copy of the Convention as it would stand when amended as is herein proposed.

I am, &c.

(Signed) WILLIAM H. SEWARD.

No. 23.

*Memorandum communicated by Mr. Reverdy Johnson, December 24, 1868.*

ARTICLE I, paragraph first, amend by and with advice and consent of the Senate.

Paragraph second. Instead of "London," "Washington."

Article I, for paragraph, "The Commissioners shall then, and before proceeding to any other business, name some person to act as an Arbitrator or Umpire, to whose final decision shall be referred any claim upon which they may not be able to come to a decision." In the case of any and every claim the Arbitrator or Umpire may be the head of a friendly foreign State or nation. In naming or agreeing upon an Arbitrator or Umpire the Commissioners on each side may refer themselves to their own Governments for instructions, and the Contracting Parties shall and will in such case within six months after notice of such reference shall have been given, decide upon such Arbitrator or Umpire, and instruct their Commissioners accordingly. If it shall happen, nevertheless, that at the expiration of the period of six months before-named, no person the head of a Sovereign State or otherwise has been agreed upon as Arbitrator or Umpire, then and in that case, the Commissioners on each side shall name a person the head of a Sovereign State or otherwise as Arbitrator or Umpire, and in each and every case if all the Commissioners shall not be able to come to a decision they shall determine by lot which of any two persons

so named shall be the Arbitrator or Umpire in that particular case; the person first so "drawn" by lot being regarded as the choice of the Commissioners. The person or persons so to be chosen as Arbitrator or Umpire, if not the head of a Sovereign State or nation, shall, before proceeding to act as such in any case, make and subscribe a solemn declaration in a form similar to that made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of (all) or their omitting or declining, or ceasing to act as such Arbitrator or Umpire, another person shall be named in the same manner as the person originally named to act as Arbitrator or Umpire in his place and stead, and shall make and subscribe such declaration as aforesaid.

Article II, omit last paragraph.

Strike out Article IV, V, and VI.

Article IX, eighteen months instead of twelve.

Article XI, amend as before proposed.

No. 24.

*The Earl of Clarendon to Mr. Thornton.*

Sir,

*Foreign Office, December 24, 1863.*

HER Majesty's Government, since their accession to office, have had before them your telegrams of the 27th and 30th of November, your despatch of the 30th of November, and your final telegram of the 21st of December, respecting the Convention for the settlement of outstanding claims, signed by my predecessor and Mr. Johnson on the 10th of November. Mr. Johnson has also placed in my hands a telegram which he received on the same day, and which, with the exception of a passage in which it is said, "in the case of any and every claim the Arbitrator or Umpire may be the head of a friendly foreign State or nation," is identical with yours of the 21st instant.

It is, therefore, with this last telegram that Her Majesty's Government are especially called upon to deal; but, before adverting to it, I must observe that Her Majesty's Government understand that Mr. Seward's objection to the Convention signed by my predecessor and Mr. Johnson turns chiefly on the distinction made in that Convention between general claims and the so-called "Alabama" claims.

Mr. Seward desires to expunge from the Convention the passages that relate to those claims, and to leave them to be dealt with on the same footing as other claims. The passages thus proposed to be expunged are the last paragraph of Article II and Articles IV, V, and VI of the Convention.

Mr. Seward, anticipating a difficulty that might be raised by Her Majesty's Government to submitting to the arbitration of any private individual who might be selected as Arbitrator or Umpire by the Commissioners, questions of principle such as would arise in the consideration of the "Alabama" claims, now proposes to insert in Article I of the Convention, passages which should admit generally of reference to a foreign Sovereign or State of any such questions arising out of any claims whatever. By such a process provision would be made, though in a more comprehensive form, for the reference of the "Alabama" claims, in case of need, to the arbitration of a foreign Sovereign or State, which was contemplated in Articles IV and VI of the signed Convention.

Mr. Seward further desires that the Convention should be made to resemble as closely as possible the Convention of 1853, as being more likely in that shape to be acceptable to the Senate of the United States.

Her Majesty's Government after full consideration of the matter, and being no less desirous than their predecessors and Mr. Seward himself to come to a settlement on the difficult and complicated question of mutual claims, are prepared to meet the wishes of the Government of the United States in the manner which I will now explain to you.

They agree with Mr. Seward that it is desirable to adopt as closely as possible the terms of the Convention of 1853.

They also agree to expunge the last paragraph of Article II, and also Articles IV and VI of the signed Convention which relate specifically to the "Alabama" claims, but they think that with a slight alteration, to be presently



explained, it would be desirable to retain the terms of Article V, though not embodied in a distinct Article.

They further agree in the principle involved in Mr. Seward's proposed insertion in Article I, under which reference to the decision of a friendly Sovereign or State would be admissible in certain cases.

It appears, however, to Her Majesty's Government that besides involving a very wide departure from the terms of the same Article in the Convention of 1853, the proposed insertion would render the Article obscure and complicated, difficult of construction, and still more difficult in operation, and would tend to protract almost indefinitely the labours of the Commission.

Her Majesty's Government fully concur in the necessity of providing in the Convention for a more solemn arbitration where questions of principle, in which the Commissioners cannot agree, are involved, than could be expected from any private individuals selected by the Commissioners. Such questions may arise not only in regard to the "Alabama" claims, but in regard to many other classes of claims which may be brought before the Commissioners; and it seems to Her Majesty's Government highly important that such questions should be decided by the arbitration of a foreign Sovereign or State, inasmuch as they will turn on points of international law, comity, or equity, in the consideration of which a foreign Sovereign or Head of a State may call to his assistance the learning and intelligence of any of their subjects who have made such matters their especial study.

But it seems to Her Majesty's Government that it would scarcely be courteous to any Sovereign or Head of a friendly foreign State, in default of the two Governments agreeing within six months as to whom reference should be made, to leave to the Commissioners to select him. Such selection could only rightly be made by the two Governments themselves, as being co-ordinate in rank and dignity, and therefore fitting applicants for the good offices of one of their compeers; while, on the other hand, for the reasons that I have stated, the questions on which the Commissioners may be at issue can only be satisfactorily determined by a friendly foreign Sovereign or State.

Her Majesty's Government do not anticipate that any difficulty need arise between the two Governments in selecting an arbiter of that class. No such difficulty was felt in the corresponding case of the Convention of 1827, respecting the North-West Boundary, when the King of the Netherlands was agreed upon by the British Secretary of State and the United States' Minister in London.

Her Majesty's Government observe, moreover, that in Mr. Seward's proposed insertion no allusion is made to the production before the Commissioners or Arbitrator of the official correspondence which may have taken place between the two Governments respecting any claims. This they conclude to be an oversight; but if not, Her Majesty's Government would not be disposed to insist upon it.

They observe, further, that no provision is made for accepting the decision of the Arbitrator, whether chosen by the Commissioners or chosen by the Governments as ruling not only the specific claim submitted to him, but all other claims of the same class. Her Majesty's Government think it very essential that some such provision should be made, as otherwise the same principle may be submitted to arbitration over and over again, and so the sittings of the Commissioners might be indefinitely prolonged.

Bearing all these considerations in mind, Her Majesty's Government have framed a fresh draft of Convention which I now inclose, and which I have to instruct you to submit to Mr. Seward together with a copy of this despatch. This draft has been framed on the principle of adhering as closely as possible to the terms of the Convention of 1853.

Thus, the 1st Article, with the exception of the introduction of the words "by and with the advice and consent of the Senate," and the substitution of "Washington" for "London" nearly textually reproduces the same Article of the Treaty of 1853.

The 2nd Article has necessarily been altered to meet the special requirements of the present case. The proposed alterations up to the end of the third paragraph, are printed in *italics* so that they may be more easily distinguished. The reasons for proposing them are already explained.

After the third paragraph, a paragraph has been introduced varying but slightly from the 5th Article of the signed Convention. It seems necessary to adopt this provision to meet the case of the principle of a claim being decided by an Arbitrator, leaving to the Commissioners and the general Arbiter named by them,



to determine, if the case arises, the amount of compensation payable to the claimant.

After the before-mentioned paragraph, is inserted the penultimate paragraph of the signed Convention as well as Articles VII and VIII of the same.

Drawn in this shape Article II will, except as regard the passages inserted in *italics* and the fourth paragraph, nearly textually reproduce the corresponding Article of the Convention of 1853.

The remaining slight alterations in Articles IX and XI of the signed Convention are adopted.

It remains for me to say that Her Majesty's Government prefer the form of Convention to that of Protocol, as calculated to lead to an earlier settlement of the preliminary discussions between the two Governments. If a Protocol were adopted in the first instance its provisions would not be operative until it were embodied in a Convention; and the arrangement would require, as Her Majesty's Government understand the matter, to be twice submitted to the Senate for assent, whereby much time would be lost, with all the inconvenience of keeping open a question which necessarily attracts much attention, and of deferring the adjudication on claims in the early settlement of which so many subjects and citizens of the two countries are deeply interested.

I have only to add that, if the inclosed draft is accepted by Mr. Seward, Mr. Johnson might be authorized by telegraph to sign it, in which case it might be returned to Washington so as to admit of its being laid before the Senate by the middle of January, and pronounced upon by that body before the rising of the Congress on the 4th of March.

Her Majesty's Government will greatly rejoice if their first interchange of communications with the Government of the United States should be attended with a settlement of the complicated matters which forms the subject of my present despatch.

I am, &c.  
(Signed) CLARENDON.

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Inclosure in No. 24.

*Draft of Convention between Great Britain and the United States of America, for the Settlement of all Outstanding Claims.*

WHEREAS claims have at various times since the exchange of the Ratifications of the Convention between Great Britain and the United States of America, signed at London on the 8th of February, 1853, been made upon the Government of Her Britannic Majesty on the part of the citizens of the United States, and upon the Government of the United States on the part of subjects of Her Britannic Majesty; and whereas some of such claims are still pending, and remain unsettled; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a Convention, and have named as their Plenipotentiaries to confer and agree thereupon, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, Knight Grand Cross of the Most Honourable Order of the Bath, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs;

And the President of the United States of America, Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary from the United States to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:—

ARTICLE I.

The High Contracting Parties agree that all claims on the part of subjects of Her Britannic Majesty upon the Government of the United States, and all claims on the part of citizens of the United States upon the Government of Her Britannic

Majesty, which may have been presented to either Government for its interposition with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the Convention concluded between Great Britain and the United States of America, at London, on the 8th of February, 1853, and which yet remain unsettled; as well as any other such claims which may be presented within the time specified in Article III of this Convention, whether or not arising out of the late civil war in the United States, shall be referred to four Commissioners, to be appointed in the following manner, that is to say: two Commissioners shall be named by Her Britannic Majesty, and two by the President of the United States, *by and with the advice and consent of the Senate*. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act as such, Her Britannic Majesty, or the President of the United States, as the case may be, shall forthwith name another person to act as Commissioner in the place or stead of the Commissioner originally named.

The Commissioners so named shall meet at *Washington* at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn Declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection, to their own country, upon all such claims as shall be laid before them on the part of the Governments of Her Britannic Majesty and of the United States, respectively; and such Declaration shall be entered on the record of their proceedings.

The Commissioners shall then, and before proceeding to any other business, name some person to act as an Arbitrator or Umpire, to whose final decision shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an Arbitrator or Umpire, the Commissioners on either side shall name a person as Arbitrator or Umpire; and in each and every case in which the Commissioners may not be able to come to a decision, the Commissioners shall determine by lot which of the two persons so named shall be the Arbitrator or Umpire in that particular case. The person or persons so to be chosen as Arbitrator or Umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration, in a form similar to that made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity, of such person or persons, or of his or their omitting, or declining, or ceasing to act as such Arbitrator or Umpire, another person shall be named, in the same manner as the person originally named, to act as Arbitrator or Umpire in his place and stead, and shall make and subscribe such Declaration as aforesaid.

## ARTICLE II.

The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective Governments. *The official correspondence which has taken place between the two Governments respecting any claims shall be laid before the Commissioners, and they shall, moreover, be bound to receive and pursue all other written documents or statements which may be presented to them by or on behalf of the respective Governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each Government, as counsel or agent for such Government, on each and every separate claim. Should they fail to decide by a majority upon any individual claim, they shall call to their assistance the Arbitrator or Umpire whom they may have agreed upon, or who may be determined by lot, as the case may be; and such Arbitrator or Umpire, after having examined the official correspondence which has taken place between the two Governments, and the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the Commissioners, shall decide thereupon finally and without appeal.*

*\*[If, however, it shall appear to the Commissioners, or any two of them, that from the nature of any particular claim in regard to which they may have been unable to come to a decision, it is desirable that a Special Arbitrator or Umpire shall be named, to whose decision such claim shall be referred,] the Commissioners shall report to that effect to their respective Governments, who shall thereupon, within six months, agree upon some Sovereign or Head of*

\* Subsequently altered in the signed Convention, see page 37.

*a friendly State who shall be invited to decide upon such claim, and before whom shall be laid the official correspondence which has taken place between the two Governments, and the other written documents or statements which may have been presented to the Commissioners in respect of such claims.*

The decision of the Commissioners, and of the Arbitrator or Umpire, shall be given upon each claim in writing, and shall be signed by them respectively, and dated. \**[The decision of the Arbitrator or Umpire on any particular claim so referred to him shall rule on any other claims of the same class.]*

In the event of a decision involving a question of compensation to be paid, being arrived at by a special Arbitrator or Umpire, the amount of such compensation shall be referred back to the Commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the Arbitrator or Umpire appointed by them, or who shall have been determined by lot.

It shall be competent for each Government to name one person to attend the Commissioners as Agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, hereby solemnly and sincerely engage to consider the decision of the Commissioners, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive upon each of such claims decided upon by him or them respectively, and to give full effect to such decision without any objection or delay whatsoever.

It is agreed that no claim arising out of any transaction of a date prior to the 26th of July, 1853, the day of the exchange of the ratifications of the Convention of the 8th of February, 1853, shall be admissible under this Convention.

#### ARTICLE III.

Every claim shall be presented to the Commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners, or of the Arbitrator or Umpire in the event of the Commissioners differing in opinion thereupon; and then and in any such case the period for presenting the claim may be extended to any time not exceeding three months longer.

The Commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the Commissioners, or for the Arbitrator or Umpire if they differ, to decide in each case whether any claim has or has not been duly made, preferred, or laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this Convention.

#### ARTICLE IV.

All sums of money which may be awarded by the Commissioners, or by the Arbitrator or Umpire, on account of any claim, shall be paid in coin or its equivalent by the one Government to the other, as the case may be, within *eighteen* months after the date of the decision, without interest.

#### ARTICLE V.

The High Contracting Parties engage to consider the result of the proceedings of this Commission as a full and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present Convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said Commission, shall, from and after the conclusion of the proceedings of the said Commission, be considered and treated as finally settled and barred, and thenceforth inadmissible.

#### ARTICLE VI.

The Commissioners and the Arbitrator or Umpire appointed by them shall keep an accurate record and correct minutes or notes of all their proceedings with the dates

\* Omitted at the request of the United States' Government in the signed Convention.

thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them.

The Secretary shall be appointed by Her Britannic Majesty's Representative at Washington, and by the Secretary of State of the United States, jointly.

Each Government shall pay the salaries of its own Commissioners. All other expenses, and the contingent expenses of the Commission, including the salary of the Secretary, shall be defrayed in moieties by the two Parties.

#### ARTICLE VII.

The present Convention shall be ratified by Her Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at London as soon as may be within twelve months from the date hereof.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the            day of            , in the year of our Lord one thousand eight hundred and sixty-

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No. 25.

*The Earl of Clarendon to Mr. Thornton.*

Sir, *Foreign Office, December 26, 1868.*

IN a telegram from Mr. Seward dated the 1st of December, which was communicated by Mr. Johnson to my predecessor, and in a despatch from him dated the 27th of November, which was communicated by him to myself, Mr. Seward authorized Mr. Johnson, if the amendments proposed by the United States' Government in the Claims Convention were accepted by the Government of Her Majesty, to change the Protocol of the 10th of November, respecting the Island of San Juan, into a Convention, and to sign the same.

In anticipation of the Government of the United States accepting the Claims Convention in the amended shape in which it is sent to you by this mail, and authorizing Mr. Johnson to sign it, I have to instruct you to recall to Mr. Seward's recollection the contingent authority he had previously given to Mr. Johnson to convert the San Juan Protocol into a Convention, and sign it, and suggest that Mr. Johnson should be again specifically authorized by telegraph to do so.

Mr. Johnson will probably have transmitted to Mr. Seward the San Juan Protocol adapted to the form of a Convention, and I inclose copies thereof for your information.

I am, &c.  
(Signed) CLARENDON.

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No. 26.

*The Earl of Clarendon to Mr. Thornton.*

Sir, *Foreign Office, January 16, 1869.*

HER Majesty's Government having accepted the alterations proposed by Mr. Seward in the Convention for the settlement of British and American claims, as stated in your telegraphic despatch of the 11th instant, I signed with Mr. Johnson that Convention on the 14th instant, as well as a Convention for referring to arbitration the disputed line of water-boundary under the Treaty of 1846.

Copies of these Conventions are inclosed.

I am, &c.  
(Signed) CLARENDON.

## Inclosure 1 in No. 26.

*Convention between Great Britain and the United States of America, for the Settlement of all Outstanding Claims.—Signed at London, January 14, 1869.*

WHEREAS claims have at various times since the exchange of the Ratifications of the Convention between Great Britain and the United States of America, signed at London on the 8th of February, 1853, been made upon the Government of Her Britannic Majesty on the part of citizens of the United States, and upon the Government of the United States on the part of subjects of Her Britannic Majesty; and whereas some of such claims are still pending, and remain unsettled; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a Convention, and have named as their Plenipotentiaries to confer and agree thereupon, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, Knight Grand Cross of the Most Honourable Order of the Bath, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs;

And the President of the United States of America, Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary from the United States to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

## ARTICLE I.

The High Contracting Parties agree that all claims on the part of subjects of Her Britannic Majesty upon the Government of the United States, and all claims on the part of citizens of the United States upon the Government of Her Britannic Majesty, including the so-called "Alabama" claims, which may have been presented to either Government for its interposition with the other since the 26th of July, 1853, the day of the exchange of the ratifications of the Convention concluded between Great Britain and the United States of America, at London, on the 8th of February, 1853, and which yet remain unsettled; as well as any other such claims which may be presented within the time specified in Article III of this Convention, whether or not arising out of the late civil war in the United States, shall be referred to four Commissioners, to be appointed in the following manner, that is to say: two Commissioners shall be named by Her Britannic Majesty, and two by the President of the United States, by and with the advice and consent of the Senate. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting, or declining, or ceasing to act as such, Her Britannic Majesty, or the President of the United States, as the case may be, shall forthwith name another person to act as Commissioner in the place or stead of the Commissioner originally named.

The Commissioners so named shall meet at Washington at the earliest convenient period after they shall have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn Declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, without fear, favour, or affection to their own country, upon all such claims as shall be laid before them on the part of the Governments of Her Britannic Majesty and of the United States, respectively; and such Declaration shall be entered on the record of their proceedings.

The Commissioners shall then, and before proceeding to any other business, name some person to act as an Arbitrator or Umpire, to whose final decision shall be referred any claim upon which they may not be able to come to a decision. If they should not be able to agree upon an Arbitrator or Umpire, the Commissioners on either side shall name a person as Arbitrator or Umpire; and in each and every case in which the Commissioners may not be able to come to a decision, the Commissioners shall determine by lot which of the two persons so named shall be

the Arbitrator or Umpire in that particular case. The person or persons so to be chosen as Arbitrator or Umpire shall, before proceeding to act as such in any case, make and subscribe a solemn Declaration, in a form similar to that made and subscribed by the Commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such Arbitrator or Umpire, another person shall be named, in the same manner as the person originally named, to act as Arbitrator or Umpire in his place and stead, and shall make and subscribe such Declaration as aforesaid.

## ARTICLE II.

The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective Governments. The official correspondence which has taken place between the two Governments respecting any claims shall be laid before the Commissioners, and they shall, moreover, be bound to receive and peruse all other written documents or statements which may be presented to them by or on behalf of the respective Governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each Government, as Counsel or Agent for such Government, on each and every separate claim. Should they fail to decide by a majority upon any individual claim, they shall call to their assistance an Arbitrator or Umpire whom they may have agreed upon, or who may be appointed by lot, as the case may be; and such Arbitrator or Umpire, after having examined the official correspondence which has taken place between the two Governments, and the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the Commissioners, shall decide thereupon finally and without appeal.

\*[Nevertheless, if the Commissioners, or any two of them, shall think desirable that a Sovereign, or Head of a friendly State, should be Arbitrator or Umpire in case of any claim,] the Commissioners shall report to that effect to their respective Governments, who shall thereupon, within six months, agree upon some Sovereign or Head of a friendly State, who shall be invited to decide upon such claim, and before whom shall be laid the official correspondence which has taken place between the two Governments, and the other written documents or statements which may have been presented to the Commissioners in respect of such claims.

The decision of the Commissioners, and of the Arbitrator or Umpire, shall be given upon each claim in writing, and shall be signed by them respectively, and dated.

In the event of a decision, involving a question of compensation to be paid, being arrived at by a special Arbitrator or Umpire, the amount of such compensation shall be referred back to the Commissioners for adjudication; and in the event of their not being able to come to a decision, it shall then be decided by the Arbitrator or Umpire appointed by them, or who shall have been determined by lot.

It shall be competent for each Government to name one person to attend the Commissioners as Agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, hereby solemnly and sincerely engage to consider the decision of the Commissioners, or of the Arbitrator or Umpire, as the case may be, as absolutely final and conclusive upon each of such claims decided upon by him or them respectively, and to give full effect to such decision without any objection or delay whatsoever.

It is agreed that no claim arising out of any transaction of a date prior to the 26th of July, 1853, the day of the exchange of the ratifications of the Convention of the 8th of February, 1853, shall be admissible under this Convention.

\* The words between brackets were substituted at the request of the United States' Government for the words also between brackets in the draft of the Article in page 33.

## ARTICLE III.

Every claim shall be presented to the Commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners, or of the Arbitrator or Umpire in the event of the Commissioners differing in opinion thereupon; and then and in any such case the period for presenting the claim may be extended to any time not exceeding three months longer.

The Commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the Commissioners, or for the Arbitrator or Umpire if they differ, to decide in each case whether any claim has or has not been duly made, preferred, or laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this Convention.

## ARTICLE IV.

All sums of money which may be awarded by the Commissioners, or by the Arbitrator or Umpire, on account of any claim, shall be paid in coin or its equivalent by the one Government to the other, as the case may be, within eighteen months after the date of the decision, without interest.

## ARTICLE V.

The High Contracting Parties engage to consider the result of the proceedings of this Commission as a full and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present Convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said Commission, shall, from and after the conclusion of the proceedings of the said Commission, be considered and treated as finally settled and barred, and thenceforth inadmissible.

## ARTICLE VI.

The Commissioners, and the Arbitrator or Umpire appointed by them, shall keep an accurate record and correct minutes or notes of all their proceedings with the dates thereof, and shall appoint and employ clerks or other persons to assist them in the transaction of the business which may come before them.

The Secretary shall be appointed by Her Britannic Majesty's Representative at Washington, and by the Secretary of State of the United States, jointly.

Each Government shall pay the salaries of its own Commissioners. All other expenses, and the contingent expenses of the Commission, including the salary of the Secretary, shall be defrayed in moieties by the two Parties.

## ARTICLE VII.

The present Convention shall be ratified by Her Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged in London as soon as may be within twelve months from the date hereof.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the fourteenth day of January, in the year of our Lord one thousand eight hundred and sixty-nine.

(L.S.) CLARENDON.  
(L.S.) REVERDY JOHNSON.

Inclosure 2 in No. 26.

*Convention between Her Majesty and the United States of America, for referring to Arbitration the Water Boundary under Article I of the Treaty of June 15, 1846. Signed at London, January 14, 1869.*

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, being desirous to close all further discussion



with regard to the true direction of the line of water boundary between their respective possessions, as laid down in Article I of the Treaty concluded between them on the 15th of June, 1846, have resolved to conclude a Treaty for this purpose, and have named as their Plenipotentiaries, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a Member of Her Britannic Majesty's Most Honourable Privy Council, Knight of the Most Noble Order of the Garter, Knight Grand Cross of the Most Honourable Order of the Bath, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs;

And the President of the United States of America, Reverdy Johnson, Esquire, Envoy Extraordinary and Minister Plenipotentiary from the United States to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:—

#### ARTICLE I.

Whereas it was stipulated by Article 1 of the Treaty concluded at Washington on the 15th of June, 1846, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, that the line of boundary between the territories of Her Britannic Majesty and those of the United States, from the point on the 49th parallel of north latitude, up to which it had already been ascertained, should be continued westward along the said parallel of north latitude "to the middle of the channel which separates the Continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean;" and whereas the Commissioners appointed by the two High Contracting Parties to mark out that portion of the boundary which runs southerly through the middle of the channel aforesaid, have not been able to determine which is the true line contemplated by the Treaty;

The two High Contracting Parties agree to refer to the President of the Swiss Confederation to determine the line which, according to the terms of the aforesaid Treaty, runs southerly through the middle of the channel which separates the Continent from Vancouver's Island, and of Fuca's Straits, to the Pacific Ocean.

#### ARTICLE II.

If the Referee should be unable to ascertain and determine the precise line intended by the words of the Treaty, it is agreed that it shall be left to him to determine upon some line which, in his opinion, will furnish an equitable solution of the difficulty, and will be the nearest approximation that can be made to an accurate construction of the words of the Treaty.

#### ARTICLE III.

It is agreed that the Referee shall be at liberty to call for the production of and to consult, all the correspondence which has taken place between the British and American Governments on the matter at issue, and to weigh the testimony of the British and American negotiators of the Treaty, as recorded in that correspondence, as to their intentions in framing the Article in question; and the Referee shall further be at liberty to call for the reports and correspondence, together with any documents, maps, or surveys bearing on the same, which have emanated from or were considered by the Commissioners who have recently been employed by the two Governments to endeavour to ascertain the line of boundary, as contemplated by the Treaty, and to consider all evidence that either of the High Contracting Parties may produce. But the Referee shall not depart from the true meaning of the Article as it stands, if he can deduce that meaning from the words of that Article, those words having been agreed to by both Parties, and having been inserted in a Treaty ratified by both Governments.

#### ARTICLE IV.

Should either Government deliver to the Referee a statement of its case, a copy thereof shall be at the same time communicated to the other Party, through its Representative in Switzerland, together with a copy of all papers or maps annexed to such statement. Each Government shall moreover furnish to the other, on



application, a copy of any individually specified documents or maps in its own exclusive possession, relating to the matter at issue.

Each Party shall be at liberty to draw up and lay before the Referee a final statement, if it think fit to do so, in reply to the case of the other Party, and a copy of such definitive statement shall be communicated by each Party to the other, in the same manner as aforesaid.

The two High Contracting Parties engage to use their best exertions to place the whole of their respective case before the Referee within twelve months after the exchange of the ratifications of the present Treaty.

#### ARTICLE V.

The Ministers or other public Agents of Great Britain and of the United States at Berne shall be considered as the Agents of their respective Governments to conduct their case before the Referee, who shall be requested to address all his communications and give all his notices to such Ministers or other public Agents, whose Acts shall bind their Governments to and before the Referee on this matter.

#### ARTICLE VI.

It shall be competent to the Referee to proceed in the said arbitration and all matters relating thereto, as and when he shall see fit, either in person or by a person or persons named by him for that purpose; either with closed doors or in public sitting; in the presence or absence of both Agents; and either *vidé voce* or by written discussion or otherwise.

#### ARTICLE VII.

The Referee shall, if he thinks fit, appoint a Secretary, Registrar, or Clerk for the purposes of the proposed arbitration, at such rate of remuneration as he shall think proper. He shall be requested to deliver, together with his award, a statement of all the costs and expenses which he may have been put to in relation to this matter; and the amount thereof shall forthwith be repaid in two equal portions, one by each of the two Parties.

#### ARTICLE VIII.

The Referee shall be requested to give his award in writing, as early as convenient after the whole case on each side shall have been laid before him, and to deliver one copy thereof, signed by him, to each of the said Agents.

#### ARTICLE IX.

The respective Parties formally engage to consider the decision of the Referee, when given, as final and conclusive, whether such decision shall be a positive decision as to the line of boundary intended by the true meaning of the words of Article I of the Treaty of 1846, or whether the said Referee, being unable to give such positive decision, shall give as a decision a line of boundary as the nearest approximation to an accurate construction of those words, and as furnishing an equitable solution of the difficulty; and such decision shall, without reserve, be carried into immediate effect by Commissioners to be appointed for the purpose of marking out the line of boundary, in accordance with such decision of the Referee.

#### ARTICLE X.

The present Treaty shall be ratified by Her Britannic Majesty, and by the President of the United States by and with the advice and consent of the Senate thereof, and the Ratifications shall be exchanged at London as soon as may be within twelve months from the date hereof.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London, the fourteenth day of January, in the year of our Lord one thousand eight hundred and sixty-nine.

(L.S.) CLARENDON.  
(L.S.) REVERDY JOHNSON.

## No. 27.

*Mr. Thornton to the Earl of Clarendon.—(Received January 31.)*

My Lord,

*Washington, January 18, 1869.*

I HAVE the honour to inform your Lordship that copies of the Protocol on Naturalization, of the Convention on Claims, and of that with regard to the San Juan question, lately concluded between England and the United States, have been officially communicated to the Senate by the President of the United States. No action has as yet been taken upon them by that body.

I have, &c.

(Signed) EDWD. THORNTON.

## No. 28.

*Mr. Thornton to the Earl of Clarendon.—(Received February 6.)*

My Lord,

*Washington, January 25, 1869.*

I HAVE the honour to inform your Lordship that on the 19th instant Mr. Corbett, one of the Senators from Oregon, submitted to the Senate a Memorial from certain citizens of Washington territory relative to the San Juan question. I have not yet been able to obtain a copy of this memorial, but I understand that it protests against submitting the question of the claims of Great Britain to the Haro Archipelago and the channel between San Juan and Vancouver's Islands to the arbitration of any foreign Power. The Memorialists set forth that the United States having already conceded from the line of 54° 40' to that of 49° for the sake of peace, neither their honour nor their interests will admit of further surrender of right.

Mr. Corbett stated that these views coincided with his own; he was satisfied, he said, that the United States' Government only deviated from the line of the 49th parallel in order that Vancouver's Island might not be divided, and that in his opinion Great Britain had no right to the Island of San Juan. He added that the deepest channel running between the two islands was the boundary line.

The Memorial was ordered to be printed and referred to the Committee on foreign relations.

I have, &c.

(Signed) EDWD. THORNTON.

## No. 29.

*Mr. Thornton to the Earl of Clarendon.—(Received February 15.)*

My Lord,

*Washington, February 1, 1869.*

WITH reference to my despatch of the 25th ultimo, I have the honour to inclose three printed copies of the Memorial therein alluded to, signed by certain citizens of Washington territory, entreating the Senate not to consent that the question of the water boundary of British Columbia should be submitted to arbitration.

Your Lordship will observe that the statements upon which the Memorialists found their objections, are for the most part incorrect.

I have, &c.

(Signed) EDWD. THORNTON

## Inclosure in No. 29.

*Memorial of Marshall F. Moore, Governor of Washington Territory, and other Citizens of said Territory, remonstrating against any Recognition of the Claims of Great Britain to the Haro Archipelago and to San Juan Island.*

*Olympia, Washington Territory, December 7, 1868.*

To the Honourable the Senate of the United States:

YOUR Memorialists, having learned that a proposition had been made to submit the unfounded claims of Great Britain to the Haro Archipelago, and especially to San Juan Island, to the arbitration of some foreign Power, respectfully protest against any recognition of those claims whatever. The terms of the Treaty of 1846 fix the boundary line along the Canal de Haro. The object of the deflection of the line from the 49th parallel, being simply to give the whole of Vancouver's Island to Great Britain, can be exactly accomplished by this channel alone. The officers who negotiated and adopted the Treaty, and the Senate by which it was ratified, acted with the full understanding that the Canal de Haro was the boundary. Having already conceded from the line of 54° 40' to that of 49°, for the sake of peace, neither the honour nor the interests of the United States will admit of further surrender of right.

We, therefore, entreat your Honourable Body to consent to no Protocol nor Convention that admits a doubt of our right to the line of the Canal de Haro, or renders possible a surrender of these islands.

And your Memorialists will ever pray, &c.

(Signed)

MARSHALL F. MOORE, *Governor of Washington Territory.*

HAZARD STEVENS, *Collector, &c.*

S. D. HOWE, *Assessor Internal Revenue, Washington Territory.*

JOS. CUSHMAN, *Receiver, &c.*

E. MARSH, *Register of the Land Office.*

FRANK CLARK.

H. G. STEINER.

J. E. WYCHE, *United States' Judge of Washington Territory.*

ELWOOD EVANS.

LEANDER HOLMES, *United States' Attorney.*

S. GARFIELD, *Surveyor-General, Washington Territory.*

PHILIP D. MOORE, *Late Collector of Internal Revenue.*

T. M. REED, *Chief Clerk, Surveyor-General's Office, Washington Territory.*

E. L. SMITH, *Secretary, Washington Territory.*

CHAS. A. WHITE, *Surveyor.*

C. H. HALL, *Late Superintendent Indian Affairs.*

E. GIELELING, *Late Acting Surveyor-General.*

BENJ. HARNED, *Territorial Treasurer, Washington Territory.*

C. S. KING, *United States' Indian Agent.*

LEVI SHELTON, *Territorial Librarian.*

WM. HUNTINGTON, *United States' Marshal.*

B. F. DENNISON, *District Judge.*

O. B. Mc FADDEN, *Late Chief Justice of Washington Territory.*

W. W. MILLER, *Late Superintendent Indian Affairs.*

## No. 30.

*Mr. Thornton to the Earl of Clarendon.—(Received February 15.)*

My Lord,

*Washington, February 1, 1869.*

I HAVE the honour to inform your Lordship that on the 29th ultimo Mr. Sumner presented a petition to the Senate signed by George B. Upton, a merchant of Boston, relative to the Claims Convention lately signed by your Lordship and Mr. Reverdy Johnson.

I have been unable as yet to obtain a copy of this petition, but I understand that Mr. Upton remonstrates against the ratification of the Convention on account of the injustice which he asserts would thereby be done to himself and other

claimants. He adds that he has higher objections to its confirmation: "That the so-called Treaty proposes to put upon the same footing claims by British subjects which have arisen under a disagreement in regard to the ordinary forms of neutrality, and claims of our own citizens upon the British Government for piracies committed by British-built, British-manned, and British-armed vessels; by vessels and armaments which left British ports under the protection of the British flag, and burned American ships, and your Memorialist's among the number, upon the high seas, without taking them into port for condemnation, and without any action being taken on the part of the British Government when these atrocities were laid before it to prevent the same."

I should observe that although the whole petition was not read to the Senate, Mr. Sumner quoted that part of it which I have transcribed, stating that that presented its substance.

He then moved that it should be referred to the Committee on Foreign Relations, which was agreed to.

I have, &c.  
(Signed) EDWD. THORNTON.

P.S.—February 2.—I have just received a single copy of the above-mentioned petition from Boston, and have the honour to inclose it for your Lordship's information.

E. T.

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Inclosure in No. 30.

*Petition.*

To the Honourable the Senate of the United States:

THE Undersigned, a citizen of the United States, respectfully memorializes and presents that he has read what purports to be a copy of a Treaty between this country and Great Britain for the settlement of claims, and among others, for a settlement of the so-called "Alabama" Claims.

He respectfully remonstrates against the confirmation of the Treaty on account of the injustice which would thereby be done to himself and other claimants. It is therein proposed to allow each nation twelve months' time for a confirmation, and two years thereafter for the Commission to sit, and after closing their labours, then, if anything is found to be due, that a further period of eighteen months longer is allowed for payment, without interest. The mere statement of these points ought, perhaps, to settle the question of rejection. He, however, respectfully represents that he has higher objections to its confirmation.

This so-called Treaty proposes to put upon the same footing claims by British subjects, which have arisen under a disagreement in regard to the ordinary forms of neutrality, and claims of our own citizens upon the British Government for piracies committed by British-built, British-manned, and British-armed vessels; by vessels and armaments which left British ports under the protection of the British flag, and burned American ships, and your Memorialist's among the number, upon the high seas, without taking them into port for condemnation, and without any action being taken, upon the part of said British Government, when these atrocities were laid before it to prevent the same; but on the contrary, these pirates were everywhere received with rejoicing when visiting British ports, and when the notorious builder of one of them boasted of the same in the British Parliament, of which he was a member, he was received with cheers and expressions of satisfaction. This shows, in the opinion of your Memorialist, the animus of the British Government towards the Government of the United States. He therefore respectfully protests, as an American citizen, against the confirmation of the Treaty, and prays that this Government will demand redress for its citizens, apart from all other claims, for the insults and injuries thus inflicted upon them and the country, through the wilful negligence, or with the open approval, of the British Government.

(Signed) GEO. B. UPTON.

Boston, January 27, 1869.

*Mr. Thornton to the Earl of Clarendon.—(Received March 7.)*

(Extract.)

*Washington, February 22, 1869.*

I HAVE already had the honour to inform your Lordship that the Convention for the settlement of outstanding claims signed by your Lordship and Mr. Reverdy Johnson on the 14th ultimo had been sent by the President to the Senate for their approval.

I now learn that on the 18th instant at the meeting of the Senate Committee on Foreign Relations, its Chairman, Mr. Sumner, brought forward the above-mentioned Convention, and, after making a short comment upon its contents, and stating that it covered none of the principles for which the United States had always contended, recommended that the Committee should advise the Senate to refuse their sanction to its ratification.

Six out of seven members of the Committee were present, Mr. Bayard, Senator from Delaware, being absent; but his six colleagues, as I was told, voted, without any discussion or observations, adversely to the Convention. It has consequently been represented as a unanimous vote of the Committee, though it was not really so.

Mr. Sumner was accordingly authorized to report in that sense to the Senate.

I have the honour also to inclose copy of a Resolution adopted by the Legislature of Massachusetts protesting against the ratification of any Convention which does not admit the liability of England for the acts of the "Alabama" and her consorts.

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Inclosure in No. 31.

*Resolution of Massachusetts Legislature respecting Claims Convention.*

*Boston, February 19.*—THE following Resolution, in reference to the Treaty with Great Britain, was introduced in the Massachusetts Legislature to-day and referred:—

*Resolved,*—That the Massachusetts Legislature, in General Court assembled, firmly believe that any Treaty between England and America touching the premises aforesaid, which may be submitted now or at any future time for ratification, which does not, by its terms, concede the liability of the English Government for acts of her protégés, the "Alabama" and her consorts will be spurned with contempt by the American people, and that a ratification thereof would be dishonourable to our nation, and unjust to our citizens.

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No. 32.

*Mr. Thornton to the Earl of Clarendon.—(Received March 7.)*

My Lord,

*Washington, February 22, 1869.*

I HAVE already had the honour to inform your Lordship that the Convention signed on the 14th ultimo by your Lordship and Mr. Reverdy Johnson, for referring to arbitration the Water Boundary under Article I of the Treaty of 15th June, 1846, was submitted to the Senate some time ago for their approval.

I have now learnt that the Committee of that Body on foreign relations have authorized their Chairman, Mr. Sumner, to make a Report upon the Convention to the Senate, and to recommend that they should sanction its ratification by the President.

I can hardly hope that time will be found to make the Report, or to take it into consideration during the present Session; but there is no reason why it should not be in that which will be held after the 4th of next month.

I have, &c.

(Signed) EDWD. THORNTON.

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## No. 33.

*Mr. Thornton to the Earl of Clarendon.—(Received March 7.)*

My Lord,

*Washington, February 22, 1869.*

WHEN the Protocol upon Naturalization, signed by Lord Stanley and Mr. Reverdy Johnson, was sent to the Senate by the President, it was accompanied by a request that that Body would express their opinion whether it would be expedient that a Treaty should be concluded with Great Britain, founded upon the principles laid down in that Protocol.

I understand that the Senate Committee on Foreign Affairs have charged their Chairman, Mr. Sumner, to make a Report to the Senate upon the Protocol, and to recommend that the Executive Power be authorized to negotiate such a Treaty with England.

The press of business is, however, now so great that it is not likely that this Report will be made, or taken into consideration during the present Session, although it may be during that which will be held after the 4th of March.

I have, &c.

(Signed) EDWD. THORNTON.

## No. 34.

*The Earl of Clarendon to Mr. Thornton.*

Sir,

*Foreign Office, March 22, 1869.*

MR. REVERDY JOHNSON called upon me to-day to propose that an amendment, of which I inclose a copy, should be made to Article I of the Convention, as he thought it would satisfactorily meet the objections entertained by the Senate to the Convention, and would secure its ratification by that body.

I remarked to Mr. Johnson that his proposal would introduce an entirely new feature into the Convention, which was for the settlement of claims between the subjects and citizens of Great Britain and the United States; but that the two Governments not having put forward any claims on each other, I could only suppose that his object was to favour the introduction of some claim by the Government of the United States for injury sustained on account of the policy pursued by Her Majesty's Government.

Mr. Reverdy Johnson did not object to this interpretation of his amendment, but said that if claims to compensation on account of the recognition by the British Government of the belligerent rights of the Confederates were brought forward by the Government of the United States, the British Government might, on its part, bring forward claims to compensation for damages done to British subjects by American blockades, which, if the Confederates were not belligerents, were illegally enforced against them.

I replied that amendments had repeatedly been made during the negotiations in order to meet the wishes of the United States' Government, and to secure, as it was said, the assent of the Senate, but that our course of proceeding had not been met in a corresponding spirit; and we only knew that, contrary to custom, the Convention had at once been published, not only before it was ratified, but before it had been taken into consideration by the Senate; and that, to this day, we had not been informed of the objections made to the Convention by the Committee of the Senate or whether the Senate would come to a decision upon it or not.

Under all these circumstances, I said that it did not seem proper for Her Majesty's Government to take any further step in the matter, or to adopt any amendment of the Convention, even if it had been free from objection.

Mr. Johnson requested me to take it into consideration, and I assured him that I would bring his proposal to the knowledge of my colleagues, but that I did not think their view of it would differ from my own.

I am, &c.

(Signed) CLARENDON.

## Inclosure in No. 34.

*Amendment to Article I of Claims Convention.*

Article I. THE High Contracting Parties agree that all claims on the part of Her Britannic Majesty's Government upon the Government of the United States, and all claims on the part of the Government of the United States upon the Government of Her Britannic Majesty, and all claims on the part of subjects of Her Britannic Majesty upon the Government of the United States . . . . .

No. 35.

*Mr. Reverdy Johnson to the Earl of Clarendon.—(Received March 25.)*

My Lord,

*Legation of the United States, London, March 25, 1869.*

I KNOW you fully concur with me, that it is important to the interest and tranquillity of both our countries that the Convention signed by us on the 14th of January last should go into operation. As this cannot be effected without the ratification of the Convention by the Senate of the United States, it is necessary to remove the objection which that Body is supposed to entertain to it. I have reason to believe that the objection consists in the fact that the Convention provides only for the settlement by arbitration of the individual claims of British subjects and American citizens upon our respective Governments, and not for any claims which either Government as such may have upon the other. If I am right in this, as I think I am, the principle of arbitration is not disapproved of. On the contrary, all that the Senate desires is, that the entire controversy as to claims, shall be included within it, so as thereby to be finally settled.

My Government believe, as I am now advised, that it has a claim of its own upon Her Majesty's Government, because of the consequences resulting from a premature recognition of the Confederates during our late war, and from the fitting-out of the "Alabama" and other similar vessels in Her Majesty's ports, and from their permitted entrance into other ports to be refitted and provisioned during their piratical cruize.

The existence of such a claim makes it as necessary that its ascertainment and adjustment shall be provided for, as the individual claims growing out of the same circumstances.

As I explained to your Lordship, at the interview which I had the honour to have with you on Monday the 22nd instant, the decision of the arbitration upon the claim in question, may be such as to give to Her Majesty's Government a claim upon the United States. I therefore now officially propose to your Lordship, that we sign a Supplemental Convention which shall only so far alter the one of the 14th of January as to provide that the claims which either Government may have upon the other shall be included within it, and be settled in the same way. This can be done by inserting in the 1st Article after the word "agree" in the first line, these words:—"That all claims on the part of Her Majesty's Government upon the Government of the United States, and all claims of the Government of the United States upon Her Majesty's Government," and leaving the rest of the Article unchanged.

Such a provision as this would, I have every reason to believe, at once result in the ratification of the Convention by the Senate. And as it would in no degree compromise the rights or honour of either Government, but merely carry out the principle of arbitration upon which the Convention of the 14th of January rests, I earnestly hope that Her Majesty's Government will consent to it.

If this is done, and the Convention is ratified, every existing controversy between our two countries will soon be amicably settled, as it is certain that the Naturalization Protocol and the San Juan Convention meet with no opposition.

Soliciting as early a reply as your Lordship can conveniently give me, I have, &c.

(Signed) REVERDY JOHNSON.

## No. 36.

*The Earl of Clarendon to Mr. Reverdy Johnson.*

Sir, *Foreign Office, March 27, 1869.*  
I HAVE the honour to acknowledge the receipt your letter of the 25th instant, proposing the signature of a Convention supplementary to that of the 14th of January, by which provision would be made that the claims which either Government may have upon the other shall be included within the Convention of the 14th of January, and settled in the same way; and I beg leave to acquaint you, in reply, that immediately on the return of my colleagues to London, several of whom are absent during the short Easter recess, your letter shall have their attentive consideration.

In the meantime, however, I request you will have the goodness to inform me whether the proposal contained in your letter is made in pursuance of express instructions from the Government of the United States, as I do not clearly understand from your letter that such is the case.

I am, &c.  
(Signed) CLARENDON.

## No. 37.

*The Earl of Clarendon to Mr. Thornton.*

Sir, *Foreign Office, March 27, 1869.*  
WITH reference to my despatch of the 22nd instant, giving an account of a conversation with Mr. Johnson respecting the Claims Convention, I now inclose a copy of a letter which I have since received from him,\* formally proposing the signature of a Supplemental Convention, by which the previous Convention would be made applicable to claims that might be preferred by the respective Governments each other.

I also inclose a copy of a letter which I have addressed to Mr. Johnson† acknowledging his letter, and acquainting him that it would be considered on the re-assembling of the Cabinet after the Easter recess.

You will consider the matter referred to in this correspondence as confidential for the present, at least so far as not to initiate any communication upon it.

I am, &c.  
(Signed) CLARENDON.

## No. 38.

*Mr. Reverdy Johnson to the Earl of Clarendon.—(Received March 29.)*

My Lord, *United States' Legation, London, March 29, 1869.*  
I HAVE the honour to receive your note of the 27th instant, and shall look with solicitude to the determination of your Government upon the proposition contained in my official note to you of the 25th.

That proposition was not made in pursuance of any express instructions of my Government, but under the ample authority conferred upon me when I came to this country and since; an authority which has never been revoked, or in any particular modified.

Repeating my opinion that the acceptance of the proposition would result in the ratification by the Senate of the Claims Convention of the 14th of January last, I have, &c.

(Signed) REVERDY JOHNSON.

\* No. 35.

† No. 36.



## No. 39.

*Mr. Thornton to the Earl of Clarendon.—(Received April 4.)*

My Lord,

*Washington, March 23, 1869.*

I HAVE been informed by Mr. Sumner, the Chairman of the Committee on Foreign Relations, that the Convention on Claims signed by your Lordship on the 14th of January last will be submitted to the Senate in Executive Session as soon as an opportunity shall offer. But all other business has been delayed by the prolonged discussion on the Tenure of Office Act.

It has been reported by the newspapers and elsewhere that Mr. Sumner has prepared a lengthy exposition which will be submitted with the Committee's adverse Report on the Convention, and that its tone would tend to excite a warlike feeling against England. When I last saw Mr. Sumner, a few days ago, he of his own accord alluded to these reports, and declared in an earnest manner that his statement on the Convention would in no way display a hostile spirit against us, but would merely set forth and support, by strong arguments, the views held by the people of the United States with respect to the course pursued by England during the late civil war with regard to the Southern States.

As far as it is possible to form an opinion of so numerous a Body as the Senate, voting in secret Session upon the Convention in question, my belief is that it will fail to obtain in its favour the necessary two-thirds of their votes.

I have, &c.

(Signed) EDWD. THORNTON.

## No. 40.

*The Earl of Clarendon to Mr. Reverdy Johnson.*

Sir,

*Foreign Office, April 8, 1869.*

IN my letter of the 27th ultimo I had the honour to inform you that Her Majesty's Government would attentively consider the proposal respecting the Claims Convention contained in your letter of the 25th ultimo, which has for its object, by the insertion of a few words in Article I, to include in the Convention the claims that either Government might have on the other, as well as private claims.

Her Majesty's Government could not fail to observe that this proposal involved a wide departure from the tenor and terms of the Convention of 1853, to which, in compliance with your instructions, you have constantly pressed Her Majesty's Government to adhere, as necessary to insure the ratification of a new Convention by the Senate of the United States.

No undue importance is attached to this deviation, but I beg leave to inform you that in the opinion of Her Majesty's Government it would serve no useful purpose now to consider any amendment to a Convention which gave full effect to the wishes of the United States' Government, and was approved by the late President and Secretary of State, who referred it for ratification to the Senate, where it appears to have encountered objections, the nature of which has not been officially made known to Her Majesty's Government.

I am, &c.

(Signed) CLARENDON.

## No. 41.

*Mr. Reverdy Johnson to the Earl of Clarendon.—(Received April 9.)*

My Lord,

*Legation of the United States, London, April 9, 1869.*

I HAVE the honour to acknowledge the receipt of your Lordship's note of yesterday.

It is not my present purpose to renew the proposition contained in my letter of the 25th of March, nor to withdraw it. I felt myself entirely justified in making it by my instructions from the late Administration of my Government.

My sole object in addressing your Lordship now is to meet the difficulty,

which your Lordship suggests, to Her Majesty's Government agreeing to the proposition in question, "that it would involve a wide departure from the tenor and terms of the Convention of 1853." In this I think your Lordship is mistaken. The design of the Convention of 1853 was to settle all claims which either Government, in behalf of its own citizens or subjects, might have upon the other, the mode of settlement being the submission of them to a joint Commission, with the authority in case the Commissioners differed upon any claim to call in the assistance of an Umpire. At that time, neither Government, as such, made a demand upon the other. But that, as my proposition assumes, is not the case now. The Government of the United States believes that it has in its own right a claim upon the Government of Her Majesty. In order, therefore, to a full settlement of all existing claims, it is necessary that the one which my Government makes, and any corresponding claim which Her Majesty's Government may have upon the United States, should be included within the Convention of the 14th of January, 1869.

My instructions, to which your Lordship refers, were to provide for the settlement of the claims mentioned in such instructions by a Convention upon the model of the one of the 8th of February, 1853. That I did not suggest in the negotiations which led to the Convention of January the including within it any Governmental claims, was because my instructions only referred to the individual claims of citizens and subjects.

I forbear to speculate as to the grounds upon which my instructions were so limited. I make the proposition contained in my note of the 25th of March, because I have reason to believe that the omission in the Convention of January which would be supplied by the modification suggested, is the principal, if not the only, objection to the ratification of the Convention by the Senate of the United States.

I am gratified to be able to infer from your Lordship's note that "no undue importance is attached to this deviation," which your Lordship supposes would be the effect of the suggested change; that if it had been made, or should hereafter be made, under positive instructions from my Government, and Her Majesty's Government had reason to think that it would terminate the entire controversy, that it would be acceded to.

I shall, at the earliest moment, forward this correspondence to my Government, with the hope that it may have a satisfactory result.

I have, &c.

(Signed) REVERDY JOHNSON.

No. 42.

*The Earl of Clarendon to Mr. Thornton.*

Sir.

*Foreign Office, April 9, 1869.*

I HAD a conversation with Mr. Reverdy Johnson on the 5th instant, when I told him that Her Majesty's confidential advisers had not yet considered the proposal respecting a Supplemental Claims Convention contained in his letter of the 25th of March, of which a copy was transmitted to you in my confidential despatch of the 27th of that month, but that I had spoken of it to some of my colleagues.

It appeared to them, I said, as it did to me, that by the adoption of his proposal an entirely new principle would be admitted, at variance with the Convention of 1853, which Her Majesty's Government were all along told was to be the model of a new Claims Convention. Her Majesty's Government, I said, had made various concessions in order to meet the wishes of the Government of the United States, and those which the Senate were supposed to entertain. Two months and more had elapsed without action being taken by the Senate beyond the publication of the Convention. Her Majesty's Government, I added, did not know what were the objections of the Senate; and although General Grant had been installed for a month, they had had no communications either through yourself or through Mr. Johnson as to the views of the Government of the United States, though rumours were not wanting as to the feeling being hostile.

Mr. Johnson, I said, was no doubt acting on his instructions, but they were the instructions given to him by the last Government, and Her Majesty's Government

could not consider a communication not made by the authority of the present Government. He had had experience enough of the hearty desire of Her Majesty's past and present Government, and of the people of England, to efface all cause of misunderstanding, and to establish the most friendly relations with the United States; but it would not be consistent with the honour and dignity of England now to amend a Treaty already signed, in the possibly fallacious hope that we should thereby meet objections, of the real character of which we were wholly ignorant.

I am, &c.  
(Signed) CLARENDON.

No. 43.

*The Earl of Clarendon to Mr. Thornton.*

Sir,  
Foreign Office, April 10, 1869.  
WITH reference to my despatches of the 27th ultimo and of yesterday's date, I inclose, for your information, copies of a further correspondence with Mr. Reverdy Johnson on the subject of the Claims Convention.\*

I am, &c.  
(Signed) CLARENDON.

No. 44.

*Mr. Thornton to the Earl of Clarendon.—(Received April 13.)*

(Extract.) Washington, March 29, 1869.

I HAVE the honour to inform your Lordship that the Convention on Claims lately signed by your Lordship has not yet been submitted to the Senate in Executive Session by the Chairman of the Committee on Foreign Affairs; it is even whispered that no decision will be taken upon it, but that it will be allowed to lie dormant.

I have not thought it expedient to refer to the subject at all with the Secretary of State during the last few days; but at an interview which I had with him yesterday, I spoke to him upon the subject of the Convention for submitting the question of the Island of San Juan to arbitration, and expressed my hope that, as the Committee on Foreign Affairs had authorized their Chairman to report favourably upon it, the Senate would proceed to give it their sanction; for that a joint occupation of the island, although it had been amicably carried out for several years, was at best a delicate business, and might at any moment give rise to a collision.

Mr. Fish merely expressed a hope that the question would be settled, without giving an opinion whether the Senate would take the San Juan Convention into consideration during the present Session.

No. 45.

*The Earl of Clarendon to Mr. Thornton.*

Sir,  
Foreign Office, April 14, 1869.  
HER Majesty's Government approve your proceedings respecting the Claims and San Juan Boundary Conventions, as reported in your despatch of the 29th ultimo.

I am, &c.  
(Signed) CLARENDON.

\* Nos. 38, 40, and 41.

## No. 46.

*The Earl of Clarendon to Mr. Reverdy Johnson.*

Sir,

*Foreign Office, April 15, 1869.*

I HAVE had the honour to receive your letter of the 9th instant, explaining the grounds on which you felt warranted in proposing the amendment in the Claims Convention, which, in your letter of the 25th ultimo, you had submitted for the consideration of Her Majesty's Government.

In order to prevent future misunderstanding, I feel it my duty to refer to one passage in your letter.

You say "that you are gratified to be able to infer from your Lordship's note, that no undue importance is attached to this deviation, which your Lordship supposes would be the effect of the suggested change; that if it had been made, or should hereafter be made, under positive instructions from my Government, and Her Majesty's Government had reason to think that it would terminate the entire controversy, that it would be acceded to."

In saying that "no undue importance is attached to this deviation," I intended to convey that Her Majesty's Government did not think that a rigid adherence to the terms and tenor of the Convention of 1853 was of material consequence. Beyond this my meaning did not go, and consequently I did not intend to imply that your proposed alteration of Article 1 of the Convention of January 14 would be acceptable to Her Majesty's Government.

I am, &c.  
(Signed) CLARENDON.

## No. 47.

*Mr. Reverdy Johnson to the Earl of Clarendon.—(Received April 16.)*

My Lord,

*Legation of the United States, London, April 16, 1869.*

I HAVE the honour to acknowledge the receipt of your note of yesterday relating to the Claims Convention. The inference which I drew from that part of your reply to my letter of the 25th of March, which I quoted, was not only the one which I supposed could be deduced from it, but under the circumstances was the only one to be drawn from it. Your Lordship's note, however, of yesterday is conclusive that you did not design the meaning I attached to your note of the 25th instant, and I will lose no time in so informing my Government.

I have, &c.  
(Signed) REVERDY JOHNSON.

## No. 48.

*The Earl of Clarendon to Mr. Thornton.*

Sir,

*Foreign Office, April 17, 1869.*

WITH reference to my despatch of the 10th instant, I inclose, for your information, copies of further correspondence with Mr. Johnson respecting the Claims Convention.\*

I am, &c.  
(Signed) CLARENDON.

## No. 49.

*Mr. Thornton to the Earl of Clarendon.—(Received May 3.)*

(Extract.)

*Washington, April 19, 1869.*

I HAVE the honour to inform your Lordship that the Claims Convention signed by your Lordship on the 14th of January last was submitted to the Senate in Executive Session on the 13th instant, with the adverse report which had

\* Nos. 46 and 47.

previously been decided upon by the Committee on Foreign Relations. Mr. Sumner availed himself of the occasion to make a long speech on the subject, and as the Senate subsequently ordered that this speech should be made public it has been inserted in all the newspapers in the country. It was followed by a few more, all in the same sense, of which that of Mr. Chandler, Senator from Michigan, seems to have been the most violent against England, and in it he plainly indicated his desire that Great Britain should possess no territory upon this continent.

A vote was taken on the same day, fifty-four Senators voting against it, and only one in its favour.

Your Lordship will perceive that the sum of Mr. Sumner's assertions is that England insulted the United States by the premature, unfriendly, and unnecessary Proclamation of the Queen, enjoining neutrality on Her Majesty's subjects; that she owes them an apology for this step; that she is responsible for the property destroyed by the "Alabama" and other Confederate cruisers, and even for the remote damage to American shipping interests, including the increase of the rate of insurance; that the Confederates were so much assisted by being able to get arms and ammunition from England, and so much encouraged by the Queen's Proclamation, that the war lasted much longer than it would otherwise have done, and that we ought therefore to pay imaginary additional expenses imposed upon the United States by the prolongation of the war.

Mr. Sumner lays stress upon the umpire or two umpires being selected by the Commissioners, and in the latter case on one of them being chosen by lot to decide upon any particular case; and adds that the subsequent provision for naming a Sovereign or Head of a friendly State is not sufficient to remedy the evil of which he complains; while he altogether omits to allude to the fact that at the will of the two Commissioners on the one side or the other, any matter in dispute, from the highest international question to the lowest consideration of pecuniary compensation, may be referred to the single umpire agreed upon by the two Governments.

Mr. Sumner asserts that the Confederate bonds rose in price on the announcement of the signature of the Convention, and he insinuates that the claims of the bondholders would be submitted to the Commission; but he can hardly suppose the English Commissioners to admit such claims, and I can therefore only look upon this insinuation as an endeavour to excite an unfair opposition to the contents of the Convention.

It is not worth while to discuss the nice distinction which Mr. Sumner makes between belligerency by land and that on the ocean. But even if it be possible to separate the two, his argument is chiefly supported by "belittling" (to use his own phrase) the important right of blockade which was asserted by the United States, and which imposed upon neutrals the obligation of providing for the rights of their own subjects. The alternative of closing the ports of the Southern States is alluded to as if there would be no question that such a measure would have been acquiesced in by neutral Powers.

It is needless to follow Mr. Sumner in his history of the building and escape of the "Alabama," and of her subsequent reception; for these are the points which the Convention virtually consents should be submitted to arbitration; and I may here observe that although Mr. Sumner brings forward, as grounds of complaint against England, administrative measures which Her Majesty's Government would probably never agree should be submitted to the judgment of any umpire, his speech does not contain any protest against the principle of arbitration.

In speaking of the reparation which it is claimed is due by Great Britain to the United States on account of Her Majesty's Proclamation of Neutrality, Mr. Sumner brings forward as precedents the case of the "Chesapeake" boarded by the "Leopard," and that of the "Caroline" destroyed in American waters in 1837, in the former of which the act was disavowed by His Majesty's Government, and compensation was made, and, in the other, though the circumstances fully warranted the act, regret was expressed that necessity should have compelled a violation of American jurisdiction; but to compare with these two cases Her Majesty's Proclamation, issued by the deliberate advice of Her Majesty's Government, which they were called upon to give in consequence of the President's Declaration of Blockade, seriously affecting all neutrals, seems an incomprehensible display of unfair argument.

Mr. Sumner proceeds to consider the losses, individual and national, originating from our conduct. He states that the former amount to about 3,000,000*l.* sterling being the value of the ships and cargoes destroyed by the "Alabama" and other

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Confederate cruisers. I can hardly believe, however, that any reasonable American, even including Mr. Sumner, can conscientiously assert that there is the slightest ground for remonstrance against England with regard to the conduct of any of the other cruisers, whatever there may be with regard to the "Alabama." I understand further that some of the claims presented on account of these losses could not be sustained by the necessary proofs.

Mr. Sumner claims that American shipping suffered an immense loss on account of the Confederate cruisers, and cites as a proof of this loss the decrease in American and the increase in British tonnage during the war; but he ignores the fact that the transfer of American vessels to the English flag was almost entirely fictitious, and that the owners, capital, masters, and crews were really the same and American, although under English names and flag. There was consequently very little actual but only an apparent loss. That since the war shipbuilding has gradually decreased, and is still decreasing in an extraordinary manner, must be traced to some other causes than the former proceedings of the Confederate cruisers.

The idea of England being responsible for a certain portion of the expenses of the American Civil War on account of its prolongation due to the policy of Great Britain and the presence on the seas of Confederate cruisers, seems almost too preposterous to entertain; but the absurdity of it appears at once by the consideration that if the pretension were to be admitted, a nice examination would have to be made, what proportion of the losses on shipping interests and by increased insurance would be due by us on account of the "Alabama," and what proportion should be assigned to the other Confederate cruisers, two of which, the "Sumter" and "Nashville," actually sailed from Confederate ports with commissions from the Confederate Government; and further if we are to be responsible for a part of the expenses of the war on account of its prolongation, we should have a right to know how far the United States' Government are responsible for it, and to insist upon an impartial jury to examine into and decide upon the general conduct of the naval and military operations during the war.

Your Lordship will observe that Mr. Sumner claims to be animated with an anxious desire that peace should be maintained with Great Britain; yet I know of no arguments more calculated than those contained in his speech to excite the passions of his countrymen, and to inflame that animosity which, unhappily, it is but too apparent they still feel against England.

The speech has been vehemently applauded by the whole of the Republican portion of the press that has as yet reached this city, and most of them openly proclaim that the only satisfaction the United States' Government can accept will be the cession of our possessions on this continent, as well as the Bahama Islands: a mode of settlement which has frequently been hinted at to me.

Your Lordship will doubtless have observed that, with reference to the Claims Convention, there have been two violations of the rules which are supposed to be in force with regard to all Treaties negotiated with this country. The first is that the Claims Convention was published in the newspapers of this country before any action had been taken upon it by the Senate; and the second that, contrary to custom, the Senate authorized the publication of Mr. Sumner's speech made in Executive Session. Both these acts seem to have been done in a spirit unfriendly to England, though they are probably of little importance.

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No. 50.

*Mr. Thornton to the Earl of Clarendon.—(Received May 2.)*

My Lord,

Washington, April 19, 1869.

THE Secretary of State has verbally informed me that the Protocol on the subject of Naturalization, signed by Lord Stanley on the 9th of October last, has been taken into consideration by the Senate, and approved by that body. A resolution, of the exact tenor of which Mr. Fish was unable to inform me, was adopted, that the President should be authorized to enter into negotiations with Her Majesty's Government for a Treaty founded on the contents of the above-mentioned Protocol.

I have, &c.

(Signed) EDWD. THORNTON.

## No. 51.

*Mr. Reverdy Johnson to the Earl of Clarendon.—(Received May 3.)*

My Lord,

*Legation of the United States, London, May 3, 1869.*

I HAND you herewith a copy of the Resolution of the Senate of the United States, that that body does "not advise and consent to the ratification of the Convention" signed by your Lordship and myself on the 14th of January last, for the adjustment of outstanding claims on the part of citizens and subjects of the two Governments.

Notwithstanding this action of the Senate, I hope your Lordship will not infer that it is the determination of that body, or of the President of the United States, not to settle the causes of difference upon the same subjects as were embraced in the Convention of January, upon terms perfectly consistent with the rights and honour of both nations.

I think you will see conclusive evidence of this in the concluding paragraph of the despatch from my Government, inclosing the Senate's Resolution to me, which is as follows:—"The President, however, is not without hope that upon a further consideration by the two Governments of the questions involved in the negotiation, they may still be found to be susceptible of an amicable and satisfactory adjustment."

Your Lordship is herewith furnished with a copy of the despatch referred to.

In the hope thus expressed by the President, all the good men of both countries must unite.

It is, indeed, impossible to suppose that Governments as enlightened as ours can fail at any time to adjust all differences which may arise between them, in an amicable way; and so as not only to remove controversies which may disturb their peaceful relations, but so to remove them that such relations will not only be continued but strengthened.

I pray, &c.

(Signed) REVERDY JOHNSON.

Inclosure 1 in No. 51.

*Mr. Fish to Mr. Reverdy Johnson.*

Sir,

*Department of State, Washington, April 19, 1869.*

AFTER having had under consideration for a period of three months, the Convention between the United States and Great Britain for the Adjustment of Claims, signed by Lord Stanley and yourself, at London, on the 14th of January last, the Senate of the United States on the 13th instant adopted a Resolution, a copy of which is inclosed, declining to give its advice and consent to the ratification of that instrument.

The vote of the Senate in opposition to the ratification was practically unanimous, there being only one in favour of it, and fifty-four against it.

The President, however, is not without hope that upon a further consideration by the two Governments of the questions involved in the negotiation, they may still be found to be susceptible of an amicable and satisfactory adjustment.

I am, &c.

(Signed) HAMILTON FISH.

Inclosure 2 in No. 51.

*Resolution of the Senate of the United States.*

In Executive Session, Senate of the United States, April 13, 1869.

*Resolved*,—THAT the Senate do not advise and consent to the ratification of the Convention between the United States and Great Britain, signed at London, January 14, 1869, providing for the adjustment of all outstanding claims of citizens and subjects of the parties respectively, two-thirds of the Senators present not agreeing to the ratification thereof.

Attest:

(Signed) GEO. C. GORHAM, *Secretary.*

## No. 52.

*Mr. Reverdy Johnson to the Earl of Clarendon.—(Received May 3.)*

My Lord,

*Legation of the United States, London, May 3, 1869.*

I HAVE the honour to inclose to you a copy of the Resolution of the Senate of the United States, ratifying the Protocol on the subject of Naturalization signed by Lord Stanley and myself on the 9th of October last, and stating that "the Senate advise and consent to the negotiation of a Convention between the two Governments founded upon the terms of the Protocol.

In a despatch, dated the 19th of April, inclosing the Resolution, I am instructed to inform Her Majesty's Government "that the Government of the United States stand ready, whenever it shall be the pleasure of Her Majesty's Government, to conclude a Convention upon that basis." A copy of the despatch accompanies this note.

Renewing, &c.

(Signed) REVERDY JOHNSON.

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Inclosure 1 in No. 52.

*Mr. Fish to Mr. Reverdy Johnson.*

Sir,

*Department of State, Washington, April 19, 1869.*

I HAVE to inform you that by a Resolution of the 13th instant, a copy of which is inclosed, the Senate of the United States advised and consented to the negotiation of a Convention between the United States and Great Britain, regulating the citizenship of persons who emigrate to and from the two countries, based upon the Protocol signed by yourself and Lord Stanley at London on the 9th of October last.

You will inform Lord Clarendon of this action of the Senate, and state to him that the Government of the United States stand ready, whenever it shall be the pleasure of Her Majesty's Government, to conclude a Convention upon that basis.

I am, &c.

(Signed) HAMILTON FISH.

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Inclosure 2 in No. 52.

*Resolution of the Senate of the United States.*

In Executive Session, Senate of the United States, April 13, 1869.

*Resolved*,—THAT in reply to the Message of the President of the United States of the 15th of January, 1869, transmitting a Protocol for a Convention between the United States and Great Britain, regulating the citizenship of persons who emigrate to and from the two countries, the Senate advise and consent to the negotiation of a Convention between the two Powers, based on the Protocol above mentioned.

Attest:

(Signed) GEO. C. GORHAM, *Secretary.*

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No. 53.

*The Earl of Clarendon to Mr. Reverdy Johnson.*

Sir,

*Foreign Office, May 4, 1869.*

I HAVE the honour to acknowledge the receipt of your letter of the 3rd instant, inclosing a copy of a despatch from the Secretary of State of the United States, dated the 19th of April, with a Resolution of the Senate dated the 13th of that month, stating "that the Senate do not advise and consent to the ratification of the Convention between the United States and Great Britain signed at London, January 14, 1869, providing for the adjustment of all outstanding claims of citizens and subjects of the parties respectively, two-thirds of the Senators present not agreeing to the ratification thereof."

MI, *Secretary.*



Mr. Fish, in the last paragraph of his despatch, says that "the President, however, is not without hope that upon a further consideration by the two Governments of the questions involved in the negotiation, they may still be found to be susceptible of an amicable and satisfactory adjustment."

In the hope thus expressed by the President. I have the honour to state to you that Her Majesty's Government cordially concur. During your residence in this country you must have had abundant evidence that it was the desire of the Government and people of England that all differences between the two countries should be honourably settled, and that their relations with the United States should be of a most friendly character.

I am, &c.  
(Signed) CLARENDON.

No. 54.

*The Earl of Clarendon to Mr. Reverdy Johnson.*

Sir,

*Foreign Office, May 4, 1869.*

I HAVE the honour to acknowledge the receipt of your letter of the 3rd instant, inclosing a copy of a despatch from the Secretary of State of the United States, dated the 19th of April, with a Resolution of the same dated the 13th of that month, stating "that in reply to the Message of the President of the United States of the 15th of January, 1869, transmitting a Protocol for a Convention between the United States and Great Britain, regulating the citizenship of persons who emigrate to and from the two countries, the Senate advise and consent to the negotiation of a Convention between the two Powers based on the Protocol above-mentioned."

Mr. Fish instructs you to state to me "that the Government of the United States' stand ready, whenever it shall be the pleasure of Her Majesty's Government, to conclude a Convention on that basis."

I have the honour to state to you, in reply, that, notwithstanding the great pressure of business in Parliament, Her Majesty's Government propose, if possible, during the present session, to submit to Parliament a Bill which, if passed into law, will admit of their negotiating and concluding with the Government of the United States a Convention on this important matter.

I am, &c.  
(Signed) CLARENDON.

No. 55.

*The Earl of Clarendon to Mr. Thornton.*

Sir,

*Foreign Office, May 5, 1869.*

I TRANSMIT to you herewith, for your information, a copy of a note I have addressed to Mr. Reverdy Johnson\* in reply to one I received from him, forwarding to me a copy of a despatch from Mr. Fish, with a copy of the Resolution of the Senate ratifying the Protocol on Naturalization signed by Lord Stanley and Mr. Reverdy Johnson on the 9th of October last, a copy of which was sent to you in Lord Stanley's despatch of the same date.

I am, &c.  
(Signed) CLARENDON.

No. 56.

*The Earl of Clarendon to Mr. Thornton.*

Sir,

*Foreign Office, May 5, 1869.*

I TRANSMIT to you herewith, for your information, a copy of a note I have addressed to Mr. Reverdy Johnson,† in reply to one I received from him, inclosing

\* No. 54.

† No. 53.

a copy of a despatch from Mr. Fish with a copy of the Resolution of the Senate, declining to ratify the Convention signed between the United States and this country on January 14, providing for the adjustment of all outstanding claims of citizens and subjects of the two countries, a copy of which was inclosed in my despatch No. 16 of January 16.

I am, &c.  
(Signed) CLARENDON.

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No. 57.

*Mr. Thornton to the Earl of Clarendon.—(Received May 10.)*

(Extract.)

*Washington, April 26, 1869.*  
I HAVE the honour to inform your Lordship that the Convention lately signed relative to the Island of San Juan has been brought before the Senate, and a long speech, recommending that it should not be approved, was made by Mr. Garrett Davis, a Senator from Kentucky. The principal argument used was, that the right of the United States to the possession of the island was so extremely clear that the question was not one which ought to be submitted to arbitration. It was, however, finally decided by the Senate that the further consideration of the Convention should be deferred until the next session of that body, which will open in December.

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CORRESPONDENCE respecting the Negotiations with the United States' Government on the Questions of the "Alabama" and British Claims, Naturalization, and San Juan Water Boundary. 1868-69.

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*Presented to both Houses of Parliament by Command of Her Majesty. 1869.*

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